FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2985

DATE FILMED 12/26/90 CAMERA NO. 2

CAMERAMAN AS

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REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 13 June 1989

ANALYST: Linda Tangney

I. COMMITTEE: Nagle '88 Committee
(C00216101)
H. Daniel Holm, Treasurer
P.O. Box 792
Waterloo, IA 50704

II. RELEVANT STATUTE: 2 U.S.C. §441a(f)
11 CFR 110.9(a)

III. BACKGROUND:

The Acceptance of Apparent Excessive Contributions

The Nagle '88 Committee ("the Committee") received apparent excessive contributions of $18,000 in the form of a $20,000 bank loan endorsed by two (2) individuals.

The Committee's 1988 Year End Report disclosed the receipt of a $20,000 loan on Schedule C owed to the National Bank of Waterloo. The loan was designated for the General election with an incurred date of December 19, 1988, a due date of "demand/21/89" and an interest rate of 11.75%. The two (2) endorsers listed were H. Daniel Holm, Jr. and Edward J. Gallagher, Jr. with both guaranteeing $10,000 each. This resulted in an apparent excessive contribution of $9,000 from each individual for a total amount of $18,000 in apparent excessive contributions (Attachment 2).

A Request for Additional Information ("RFAI") was mailed to the Committee on March 21, 1989, informing them of the apparent excessive contributions in the form of loan endorsements. The RFAI explained that an individual may not make a contribution to a candidate for federal office in excess of $1,000 per election, and that the Committee may wish to provide clarifying information regarding the apparent excessive contributions. The RFAI also stated that while the Commission may take further legal steps, prompt action to refund or redesignate the excessive amount would be taken into consideration (Attachment 3).

On April 6, 1989, Tim Raftis, a Committee member, telephoned a Reports Analysis Division analyst and stated that the Committee was in the process of having the loan renegotiated. Mr. Raftis stated that the loan the Committee had obtained was negotiated in error and should have listed the candidate as the guarantor. Mr. Raftis stated that a Committee member would file a letter with the Commission as soon as the loan was renegotiated (Attachment 4).

When no written response was received, a Second Letter was sent to the Committee on April 13, 1989 (Attachment 5).

On April 14, 1989, Mr. Daniel Holm, Jr. telephoned the analyst and explained that the loan had been renegotiated. Mr. Holm stated that he had "Federal Expressed" a written response to the Commission which would explain the terms of the renegotiated loan. Mr. Holm also expressed great concern about the Committee's acceptance of the original loan, and requested that the analyst telephone him if any additional information was needed (Attachment 6).

On April 14, 1989, a written response from Mr. Daniel Holm, Jr. was received. The response stated that the intent of the Committee was to secure a loan to the Committee which was to be personally guaranteed by the candidate. Mr. Holm stated that the candidate, Mr. Gallagher and he filled out financial statements and that he and Mr. Gallagher filled out the statements with "the intent of securing only that portion of the loan permissible under federal election laws. Unfortunately, the bank did not fully understand our intent..." The letter also noted that the candidate has "cleared up the miscommunication with the bank and has signed a new note with the bank to personally guarantee the entire amount." (Attachment 7). The amended Schedule C that accompanied the April 14, 1989 response disclosed a $20,000 loan owed to the National Bank of Waterloo which was designated for the General Election with an incurred date of December 19, 1988, a due date of February 1, 1989 and an interest rate of 11.75%. The three (3) endorsers for this loan were listed as David R. Nagle guaranteeing $18,740 of the loan, H. Daniel Holm, Jr. guaranteeing $785 of the loan, and Edward J. Gallagher Jr. guaranteeing $475 of the loan (Attachment 8).

On May 17, 1989, the analyst telephoned Mr. Daniel Holm Jr., and asked if he could send the Commission a copy of the original bank note or paperwork that might reflect the Committee's intent of having the candidate as the sole guarantor. Mr. Holm stated that he would send this in (Attachment 9).

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On May 23, 1989, a letter and a copy of the bank note were received. The letter stated that a copy of the promissory note was enclosed and that "Congressman Nagle was personally responsible on this loan for the full amount of the loan" (Attachment 10).[1/] The promissory note for $20,000 appeared to indicate that the borrower was David R. Nagle; however, David R. Nagle, Daniel Holm, and Edward Gallagher signed the promissory note at the bottom of the page (Attachment 11).

On June 6, 1989 the analyst telephoned Mr. Raftis to inquire abut the re-negotiated bank loan. Mr. Raftis stated that the bank loan was re-negotiated on April 3, 1989 and that he would send the information in writing (Attachment 12).

On June 7, 1989 the Commission received a letter which enclosed a copy of the re-negotiated loan dated April 3, 1989 (Attachment 13).

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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1/ The copy of the promissory note is partially illegible; therefore, further information regarding this loan cannot accurately be provided.

FEDERAL ELECTION COMMISSION 1987-1988

CANDIDATE INDEX OF SUPPORTING DOCUMENTS - FILED

DATE 1/10/89

PAGE 1

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/ PARTY	RECEIPTS PRIMARY	RECEIPTS GENERAL	DISBURSEMENTS PRIMARY	DISBURSEMENTS GENERAL	COVERAGE DATES TYPE OF FILER	# OF PAGES	MICROFILM LOCATION
BLE, DAVID R	HOUSE 00 DEMOCRATIC PARTY				IOWA	1988 ELECTION	ID# H2IA03028	
1. STATEMENT OF CANDIDATE								
1988 DISAVOWAL NOTICE						1MAR88	1	88FEC/512/0506
STATEMENT OF CANDIDATE						8MAR88	1	88HSE/131/2001
2. PRINCIPAL CAMPAIGN COMMITTEE								
NABLE '88 COMMITTEE						ID #C00216101 HOUSE		
1987 STATEMENT OF ORGANIZATION						30JUN87	1	87HSE/333/3218
MID-YEAR REPORT		3,158		1,343		1JAN87 -30JUN87	7	87HSE/336/0862
YEAR-END		86,572		27,162		1JUL87 -31DEC87	27	88HSE/341/0950
YEAR-END	AMENDMENT					1JUL87 -31DEC87	2	88HSE/345/4708
YEAR-END	AMENDMENT					1JUL87 -31DEC87	1	88HSE/350/2225
REQUEST FOR ADDITIONAL INFORMATION						1JUL87 -31DEC87	3	88FEC/512/0542
REQUEST FOR ADDITIONAL INFORMATION 2ND						1JUL87 -31DEC87	4	88FEC/515/1759
1988 48 HOUR CONTRIBUTION NOTICE						23MAY88	1	88HSE/350/3237
48 HOUR CONTRIBUTION NOTICE						27MAY88	1	88HSE/351/1490
48 HOUR CONTRIBUTION NOTICE						31MAY88	1	88HSE/351/2040
48 HOUR CONTRIBUTION NOTICE						31MAY88	1	88HSE/351/1487
48 HOUR CONTRIBUTION NOTICE						3JUN88	1	88HSE/351/2668
48 HOUR CONTRIBUTION NOTICE						25OCT88	2	88HSE/365/5456
48 HOUR CONTRIBUTION NOTICE						25OCT88	2	88HSE/365/5492
48 HOUR CONTRIBUTION NOTICE						26OCT88	2	88HSE/367/4862
48 HOUR CONTRIBUTION NOTICE						31OCT88	1	88HSE/366/2990
48 HOUR CONTRIBUTION NOTICE						31OCT88	1	88HSE/366/2246
48 HOUR CONTRIBUTION NOTICE						1NOV88	1	88HSE/368/2286
48 HOUR CONTRIBUTION NOTICE						3NOV88	1	88HSE/368/4485
48 HOUR CONTRIBUTION NOTICE						4NOV88	1	88HSE/368/5166
48 HOUR CONTRIBUTION NOTICE						7NOV88	2	88HSE/369/0477
48 HOUR CONTRIBUTION NOTICE						14NOV88	1	88HSE/369/1622
APRIL QUARTERLY		35,184				1JAN88 -31MAR88	15	88HSE/347/3152
APRIL QUARTERLY	AMENDMENT					1JAN88 -31MAR88	1	88HSE/349/2222
APRIL QUARTERLY	AMENDMENT					1JAN88 -31MAR88	1	88HSE/350/2225
APRIL QUARTERLY	AMENDMENT					1JAN88 -31MAR88	2	88HSE/350/2447
1988 PRIMARY						14APR88 -18MAY88	13	88HSE/354/4[illegible]
1988 PRIMARY	AMENDMENT					14APR88 -18MAY88	4	88HSE/355/2745
1988 PRIMARY	AMENDMENT					14APR88 -18MAY88	1	88HSE/355/3[illegible]
1988 PRIMARY	- AMENDMENT	23,937		24,130		14APR88 -18MAY88	3	88HSE/355/3[illegible]
1988 PRIMARY	- AMENDMENT					14APR88 -18MAY88	3	88HSE/355/[illegible]
REQUEST FOR ADDITIONAL INFORMATION						14APR88 -18MAY88	1	88FEC/[illegible]
REQUEST FOR ADDITIONAL INFORMATION 2ND						14APR88 -18MAY88	1	88FEC/[illegible]
JULY QUARTERLY		61,274		46,[illegible]		19MAY88 -30JUN88	23	88HSE/359/[illegible]
JULY QUARTERLY	- AMENDMENT			-		19MAY88 -30JUN88	1	88HSE/[illegible]
48 HOUR INFORMATIONAL NOTICE						19MAY88 -30JUN88	1	88FEC/[illegible]
OCTOBER QUARTERLY			147,4[illegible]		25[illegible]	1JUL88 -30SEP88	42	88HSE/[illegible]
OCTOBER QUARTERLY	- AMENDMENT					1JUL88 -30SEP88	6	88HSE/[illegible]
OCTOBER QUARTERLY	- AMENDMENT							

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FEDERAL ELECTION COMMISSION
1987-1988
CANDIDATE INDEX OF SUPPORTING DOCUMENTS - 03

DATE 13JUN89

PAGE 2

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT	PARTY	RECEIPTS PRIMARY	RECEIPTS GENERAL	DISBURSEMENTS PRIMARY	DISBURSEMENTS GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
							TYPE OF FILER		
OCTOBER QUARTERLY	- AMENDMENT			-			-30JUN88 -30SEP88	4	89HSE/377/1245
REQUEST FOR ADDITIONAL INFORMATION							30JUN88 -30SEP88	4	89FEC/574/0613
REQUEST FOR ADDITIONAL INFORMATION 2ND							30JUN88 -30SEP88	2	89FEC/576/3634
PRE-GENERAL				20,447		88,061	10OCT88 -19OCT88	20	89HSE/367/0804
PRE-GENERAL	- AMENDMENT			-			- 10OCT88 -19OCT88	2	89HSE/377/2041
PRE-GENERAL	- AMENDMENT			-			- 10OCT88 -19OCT88	2	89HSE/378/1567
POST-GENERAL				95,316		138,676	20OCT88 -28NOV88	28	89HSE/372/1212
POST-GENERAL	- AMENDMENT						-20OCT88 -28NOV88	2	89HSE/373/2180
POST-GENERAL	- AMENDMENT						-20OCT88 -28NOV88	1	89HSE/374/2263
POST-GENERAL	- AMENDMENT						-20OCT88 -28NOV88	1	89HSE/374/4742
POST-GENERAL	- AMENDMENT						-20OCT88 -28NOV88	1	89FEC/580/0022
REQUEST FOR ADDITIONAL INFORMATION							20OCT88 -28NOV88	3	89FEC/575/3766
REQUEST FOR ADDITIONAL INFORMATION 2ND							20OCT88 -28NOV88	2	89FEC/578/4549
YEAR-END				21,845		18,870	29NOV88 -31DEC88	11	89HSE/376/2670
YEAR-END	- AMENDMENT						-29NOV88 -31DEC88	4	89HSE/378/2300
YEAR-END	- AMENDMENT						-29NOV88 -31DEC88	2	89HSE/379/0635
YEAR-END	- AMENDMENT						-29NOV88 -31DEC88	3	89HSE/379/0676
REQUEST FOR ADDITIONAL INFORMATION							29NOV88 -31DEC88	3	89FEC/589/2712
REQUEST FOR ADDITIONAL INFORMATION 2ND							29NOV88 -31DEC88	4	89FEC/591/0443
TOTAL			215,981	334,023	133,960	404,928		283	TOTAL PAGES
J. AUTHORIZED COMMITTEES									
NAME '86 - U S CONGRESS							ID #C00206367 HOUSE		
1987 MID-YEAR REPORT			49,280		48,998		1JAN87 -30JUN87	26	87HSE/326/0869
MID-YEAR REPORT	- AMENDMENT						1JAN87 -30JUN87	2	88HSE/339/3705
REQUEST FOR ADDITIONAL INFORMATION							1JAN87 -30JUN87	2	87FEC/484/3973
REQUEST FOR ADDITIONAL INFORMATION 2ND							1JAN87 -30JUN87	3	87FEC/488/1435
YEAR-END				7,990		[illegible]	1JUL87 -31DEC87	6	88HSE/341/[illegible]
YEAR-END	- AMENDMENT			7,980		[illegible]	1JUL87 -31DEC87	3	88HSE/346/[illegible]
YEAR-END	- AMENDMENT			7,980		[illegible]	1JUL87 -31DEC87	3	88HSE/346/[illegible]
REQUEST FOR ADDITIONAL INFORMATION							1JUL87 -31DEC87	1	88FEC/512/[illegible]
1988 APRIL QUARTERLY				1,000		[illegible]	1JAN88 -31MAR88	6	88HSE/347/[illegible]
							1APR88 -30JUN88	4	88HSE/353/[illegible]
						[illegible]	1JUL88 -31DEC88	5	89HSE/374/[illegible]
								61	TOTA
FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN									

ALL REPORTS HAVE BEEN REVIEWED

ENDING CASH-ON-HAND AS OF 12/31/88: $13,116

OUTSTANDING DEBTS OWED BY THE COMMITTEE AS OF 12/31/88: $32,310

OUTSTANDING DEBTS OWED TO THE COMMITTEE AS OF 12/31/88: $500

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1988 YEAR END REPORT

ATTACHMENT 2

SCHEDULE C
(Revised 2/85)

LOANS

Page 2 of 3

Name of Committee (in Full)
Nagle '88

A. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
National Bank of Waterloo 100 East Park Ave. Waterloo IA 50703 Election: ☐ Primary ☒ General ☐ Other (specify)	20,000.00	-0-	20,000.00

Terms: Date Incurred 12/19/88 Date Due demand/21/88 Interest Rate 11.75 ☐ Secured ☐ Secured

List All Endorsers or Guarantors (if any) to Item A

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Amount Guaranteed Outstanding
1. H. Daniel Holm, Jr. 3324 Kimball Ave. Waterloo IA 50702	Name of Employer: Ball, Kirk, Holm & Nardini, P.C. Occupation: Attorney Amount Guaranteed Outstanding: $ 10,000.
2. Edward J. Gallagher, Jr. P. O. Box 2615 Waterloo IA 50704	Name of Employer: Gallagher, Jacobs & Gallagher, P.C. Occupation: Attorney Amount Guaranteed Outstanding: 10,000.
3. Full Name, Mailing Address and ZIP Code	Name of Employer: Occupation: Amount Guaranteed Outstanding: $

B. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
ONE TO NAGLE '88: Black Hawk County Democratic Central Committee 1112 Kimball Ave. Waterloo IA 50703 Election: ☐ Primary ☐ General ☐ Other (specify)	500.00	-0-	500.00

Terms: Date Incurred 11/8/88 Date Due _____ Interest Rate 0 ☐ Secured ☐ Secured

List All Endorsers or Guarantors (if any) to Item B

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Amount Guaranteed Outstanding
1.	Name of Employer: Occupation: Amount Guaranteed Outstanding: $
2.	Name of Employer: Occupation: Amount Guaranteed Outstanding: $
3.	Name of Employer: Occupation: Amount Guaranteed Outstanding: $

SUBTOTALS This Period This Page (optional)	
TOTALS This Period (last page in this line only)	20,500.00

Carry outstanding balance only to LINE 3 Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.

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

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

RQ-2

H. Daniel Holm Jr., Treasurer
Nagle '88 Committee
P.O. Box 792
Waterloo, IA 50704

MAR 21 1989

Identification Number: C00216101

Reference: Year End Report (11/29/88-12/31/88)

Dear Mr. Holm:

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:

-Schedule C of your report (pertinent portion attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. An individual or a political committee other than a qualified multicandidate committee may not make a contribution to a candidate for Federal office in excess of $1,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. (2 U.S.C. §§441a(a) and (f); 11 CFR 110.1(b), (e) and (k))

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If the contribution(s) you received exceeds the limits, you should either refund to the donor the amount in excess of $1,000 or get the donor to redesignate and/or reattribute the contribution in writing. All refunds, redesignations, and reattributions must be made within sixty days of the treasurer's receipt of the contribution. Copies of refund checks and copies of letters reattributing or redesignating the contributions in question may be used to respond to this letter. Refunds are reported on Line 20 of the Detailed Summary Page and on Schedule B of the report covering the period in which they are made. Redesignations and reattributions are reported as memo entries on Schedule A of the report covering the period

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in which the authorization for the redesignation and/or reattribution is received. (11 CFR 104.8(d)(2), (3) and (4))

Although the Commission may take further legal steps, prompt action by you to refund or seek redesignation and/or reattribution of the excessive amount will be taken into consideration.

A written response or 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,

Linda Tangney

Linda Tangney
Reports Analyst
Reports Analysis Division

89030342713497

ATTACHMENT 4

MEMORANDUM TO FILES: DATE 4/6/89

TELECON X
VISIT ___

NAME OF COMMITTEE: Nagle '88 Committee

SUBJECT: 1988 Year-End Report-Bank loan

FEC REP: Linda Tangney

COMMITTEE REP: Tim Raftis

Tim Raftis telephoned to state that the committee was in the process of renegotiating a bank loan that had been disclosed on the Year-End report. Mr. Raftis stated that the loan the committee had obtained was negotiated in error, and should have listed the candidate as the guarantor. Mr. Raftis stated that someone from the committee would file a letter with the Commission as soon as the loan was renegotiated.

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ATTACHMENT 5

FEDERAL ELECTION COMMISSION RQ-3

WASHINGTON, D.C. 20463

April 13, 1989

H. Daniel Holm Jr., Treasurer
Hagle '88 Committee
P.O. Box 792
Waterloo, IA 50704

Identification Number: C00216101

Reference: Year End Report (11/29/88-12/31/88)

Dear Mr. Holm:

This letter is to inform you that as of April 12, 1989 the Commission has not received your response to our request for additional information, dated March 21, 1989. 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 Linda Tangney on our toll-free number (800) 424-9530 or our local number (202) 376-2480.

Sincerely,

John D. Gibson
Assistant Staff Director
Reports Analysis Division

Enclosure

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80035916444

ATTACHMENT 6

MEMORANDUM TO FILES: **DATE** 4/14/89

TELECON X
VISIT ___

NAME OF COMMITTEE: Nagle '88 Committee

SUBJECT: Renegotiated bank loan

FEC REP: Linda Tangney

COMMITTEE REP: Daniel Holm, Jr.

Mr. Daniel Holm, Jr. telephoned to explain that the bank loan had been renegotiated, and that the candidate was now the guarantor of the loan. Mr. Holm stated that a letter had been "Federal Expressed" to the Commission. Mr. Holm stated that the letter would explain the terms of the renegotiated loan. Mr. Holm also expressed great concerns over the Committee's acceptance of the original bank loan, and requested that I contact him if I needed any further information.

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OFFICE OF THE CLERK
1989 APR 14 AM 10 33
RECEIVED

BALL, KIRK, HOLM & NAMUNE, P.C.
ATTORNEYS AT LAW
2504 KIMBALL AVENUE
P.O. BOX 2506
WATERLOO, IOWA 50704-2506
TELEPHONE (319) 234-2536

MAX E. KIRK
E. DANIEL HOLM, JR.
JAY A. NAMUNE
DAVID W. SWAN
MICHAEL W. BUCHNER

WILLIAM C. HALL
(IN CHAMBERS)

April 12, 1989

(119946)

Clerk of the House
1036 Longworth House Office Building
Washington, D.C. 20515

Dear Clerk:

Upon reviewing your letter regarding Schedule C of my Committee's Year-End Report, I immediately began the process of amending the Nagle '88 Committee Year-End Report to accurately reflect the Committee's initial intent and correct the mistake you identified. That amendment is attached.

In December of last year, Congressman Nagle asked me to see what he would need to do to arrange a loan with The National Bank of Waterloo with the express purpose of paying campaign debts. At that time, Congressman Nagle filled out a financial statement for the purpose of securing the loan to be personally guaranteed. Mr. Edward J. Gallagher, Jr. and myself likewise filled out those same forms with the intent of securing only that portion of the loan permissible under federal election laws.

Unfortunately, the bank did not fully understand our intent, and the mistake slipped by.

With this in mind, I would like to make the following points regarding my Committee's Amendment to Schedule C:

1. Congressman Nagle's clear intent was for the loan to his committee to be personally guaranteed and was under the understanding that was the reason for his signing the financial disclosure and the bank note.

2. Congressman Nagle has forthwith cleared up the apparent miscommunication with the bank and has signed a new note with the bank to personally guarantee the entire amount.

3. I have amended Schedule C of the Nagle '88 Year-End Report to reflect the correction of this mistake and to show that Congressman Nagle is the personal guarantor of this loan to his committee.

4. This was the first and only loan made to the Nagle '88 Committee and I regret the mistake. I would point out that the loan was obtained after Congressman Nagle had won re-election and therefore, the money was not used to directly effect the election, rather it was obtained with the express purpose of consolidating campaign debts.

5. I began the process of amending the report and correcting the mistake immediately upon being made aware of it.

6. Unfortunately, I did not receive the notification of this mistake until well after the sixty day period you identify in your letter as being the maximum for compliance. Had I received the notification within that sixty day timeframe, I would have acted just as quickly to clear up this matter.

I am hopeful that our prompt action to correct this mistake speaks for itself, and that the Federal Election Commission will likewise agree that we have acted and myself acted in good faith to resolve this matter in a timely fashion immediately upon notification of the mistake. I stand ready to assist you in any way possible and know that should you require any additional information, you will not hesitate to contact me.

Sincerely,

H. Daniel Holm, Jr.
Treasurer, Nagle '88 Committee
HDH:jp

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ATTACHMENT 8

AMENDED 19[redacted]R END REPORT

[redacted]

[redacted]

LT

AMENDED

Name of Committee (in Full)

A. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
National Bank of Waterloo 100 East Park Ave. Waterloo, IA 50703	20,000.00	-0-	20,000.00

Election: ☐ Primary ☐ General ☐ Other (specify)

Terms: Date Incurred 12/19/88 Date Due 2/1/89 Interest Rate 11.75 (Fixed) ☐ Secured

List All Endorsers or Guarantors (if any) to Item A

1. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Amount Guaranteed Outstanding	2. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Amount Guaranteed Outstanding	3. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Amount Guaranteed Outstanding
David R. Nagle 4935 N. Union Rd Cedar Fall, IA 50613	U.S. Representati $18,740.00	H. Daniel Holm, Jr. 3324 Kimball Ave. Waterloo, IA 50702	Ball, Kirk, Holm & Nardini, P.C. Attorney $785.00	Edward J. Gallagher, Jr. P. O. Box 2615 Waterloo, IA 50704	Gallagher, Langlas & Gallagher, P.C. Attorney $475.00

B. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
OWED TO NAGLE '88: Black Hawk County Democratic Central Committee 1112 Kimball Ave. Waterloo, IA 50701	500.00	-0-	500.00

Election: ☐ Primary ☐ General ☐ Other (specify)

Terms: Date Incurred 11/8/88 Date Due ____ Interest Rate ____ (Fixed) Secured NO

List All Endorsers or Guarantors (if any) to Item B

1. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Amount Guaranteed Outstanding	2. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Amount Guaranteed Outstanding	3. Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation / Amount Guaranteed Outstanding
	$		$		$

SUBTOTALS This Period This Page (optional)

TOTALS This Period (last page in this line only) 20,500.00

Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.

40 31 85 03

ATTACHMENT 9

MEMORANDUM TO FILES: **DATE** 5/17/89

TELECON X
VISIT ___

NAME OF COMMITTEE: Nagle '88 Committee

SUBJECT: Promissary Note for $20,000 loan

FEC REP: Linda Tangney

COMMITTEE REP: Daniel Holm, Jr.

I telephoned Mr. Holm today and asked if he could send in a copy of the bank note or any paper work that would reflect the Committee's intent in having Congressman Nagle as the sole gurantor of the $20,000 loan. Mr. Holm stated that he would locate it, and send it to the Commission right away.

9 2 0 4 0 3 1 2 5 0 4

ATTACHMENT 10

BALL, KIRK, HOLM & NARDINI, P. C.

ATTORNEYS AT LAW
3324 KIMBALL AVENUE
P.O. BOX 2696
WATERLOO, IOWA 50704-2696
TELEPHONE (319) 234-2638

MAX E. KIRK
H. DANIEL HOLM, JR.
JAY A. NARDINI
DAVID W. STAMP
MICHAEL W. BUCKNER

WILLIAM C. BALL
OF COUNSEL

89 MAY 23 AM 10: 33

May 19, 1989

Ms. Linda Tangney
7th Floor, Reports Analysis Division
999 "E" Street NW
Washington, D.C. 20463

Re: Congressman David R. Nagle

Dear Ms. Tangney:

Pursuant to our recent phone conversation, I am enclosing for you a copy of the promissory note. As you can see, Congressman Nagle was personally responsible on this loan for the full amount of the loan.

If you need any further information or have any further questions, please feel free to contact me.

Very truly yours,

BALL, KIRK, HOLM & NARDINI, P.C.

H. Daniel Holm, Jr.
HDH:jp
cc: Tim Raftus
Enclosure

90040115505

ATTACHMENT 11

PROMISSORY NOTE

NATIONAL BANK OF WATERLOO
WATERLOO, IOWA 50704

20,000.00

PERSONAL Expenses

9004081250 6

ATTACHMENT 12

MEMORANDUM FOR FILES: TELECON

SUBJECT: Re-negotiated bank loan

FROM: Linda Tangney

TO: Tim Raftis

NAME OF COMMITTEE: Nagle '88 Committee

DATE: June 6, 1989

I telephoned Mr. Raftis and inquired about the re-negotiated date of the bank loan. Mr. Raftis stated that the bank loan in question was re-negotiated on April 3, 1989. I asked Mr. Raftis if he could send this information in writing. He stated he would send a copy of the re-negotiated note which would prove that the Committee acted promptly after receiving the letter (Request for Additional Information).

7 0 4 0 1 2 5 0 7

NAGLE '88

ATTACHMENT 13
page 1 of 2

U.S. CONGRESS

P.O. BOX 792 — WATERLOO, IOWA 50704
319-232-1988

Linda -

Per our discussion enclosed is a copy of the new note completed April 3rd. Your initial letter was dated March 21st and we received it on or about March 28th in Waterloo, Iowa.

Let me know if we can be of any further assistance. Thanking you in advance for your attention to this matter.

Sincerely,
Tim Rathman

PAID FOR BY NAGLE '88 COMMITTEE — DANIEL HOLM TREASURER

ATTACHMENT 13
page 2 of 2

PROMISSORY NOTE:

☐ Fi[redacted] ☒ Va[redacted] | ☒ Single Advance; ☐ Multiple Advance; | ☐ Business or Agric[redacted]; ☒ [redacted]: | ☐ Demand; ☒ July 3, 1989 Fixed Maturity Date

CAUTION: SEPARATE TRUTH IN LENDING DISCLOSURES ARE NECESSARY UNLESS TRANSACTION EXEMPT UNDER 12 C.F.R. 226.3.

The undersigned Borrower (if more than one, jointly and severally, and hereafter referred to as Borrower) promises to pay to the order of

Lender NATIONAL BANK OF WATERLOO
at WATERLOO, IOWA 50704

Date 4-3- 19 89
LOAN NO. 34696
REN'L OF 34696
INDEX RATE 12 % (as of the date hereof)

Borrower(s) Name(s) and Address(es)
David R. Nagle
524 Washington
Waterloo, Iowa 50702

PRINCIPAL AND INTEREST

☒ the principal sum of $ 20,000.00

☐ the amount of the principal advance made by the Lender to the Borrower on the date hereof $ _____
plus advances made to Borrower from time to time hereafter pursuant to the line of credit (or equivalent) agreement dated _____ 19__
less any payments made by Borrower on this note hereafter allocated to principal, subject to a maximum principal indebtedness at any one time of $ _____

The unpaid principal balances remaining from time to time shall bear INTEREST, computed daily, at an annual rate of 12 %

☐ The above interest rate shall be fixed until this note is paid in full subject to any post-maturity interest rate specified below.

☒ Subject to any maximum and minimum rates specified below, the above interest rate on this note shall from time to time hereafter be adjusted to be 0 %
above the following selected INDEX RATE:

☐ The discount rate on 90 day commercial paper in effect at the Federal Reserve Bank of _____

☒ The National Bank of Waterloo Index Rate

☐ Changes hereafter in the INDEX RATE shall take effect on this note on the

☐ same day

☒ day following the day

☐ _____

such changes in the INDEX RATE take effect, and shall thereafter remain in effect until and including the day preceding the next adjustment date.

☐ The interest rate on this note shall not, for any one day, exceed the following annual rate _____ %

☐ The interest rate on this note shall not, for any one day, be less than the following annual rate _____ %

☒ The interest rate on this note after maturity, including maturity by acceleration, shall be:

☐ The interest rate without adjustment after maturity in effect at maturity.

☐ An annual rate without adjustment after maturity, equal to _____ %

☒ At an annual rate, with adjustments, determined on the same basis as the rate before maturity

PAYMENTS AND SECURITY

Accrued interest shall be paid (select one or more):

☐ monthly beginning on _____ 19__
and the same day of each month thereafter; and

☐ quarterly beginning _____ 19__
and on the same day of each third month thereafter; and

☐ semi-annually beginning _____ 19__
and on the same day of each sixth month thereafter; and

☐ _____

☒ at maturity, including maturity upon acceleration after default and, if applicable, on demand.

Principal shall be payable:

☐ on demand;

☒ on demand, but if no demand is made then on July 3 19 89

☐ by installments beginning _____ 19__
and on the same day of each _____
thereafter, each in an amount not less than $ _____
(exclusive of interest) until _____ 19__
at which time the entire unpaid balance of principal and interest shall be due and payable.

☐ _____

This promissory note is:

☒ not secured (except for Lender's right of set-off).

☐ secured (in addition to Lender's right of set-off) by a

☐ Mortgage or equivalent lien on Real Estate dated _____ 19__

☐ Security interest, in one or more types of personal property effective _____ 19__

Notwithstanding anything to the contrary contained herein, all payments made by Borrower to Lender hereafter shall be applied first toward interest and the balance toward principal.

Borrower may prepay this note at any time prior to maturity without penalty, but any partial prepayments shall not relieve or diminish any scheduled subsequent payments of principal or interest until all obligations are paid in full.

Except where prohibited by law, the Borrower promises to pay all costs of collection, including but not limited to reasonable attorney's fees, at any time paid or incurred by the Lender on account of such collection, whether or not suit is filed with respect thereto.

Borrower hereby warrants and represents that the proceeds of this note will be used solely for the following purposes personal campaign expenses

ANY SEPARATE CLAUSE OR SENTENCE ON THIS NOTE PRECEDED BY A ☐ IS AN OPTION TO BE SELECTED AND MARKED BY THE PARTIES HERETO AT THE TIME OF SIGNING. ANY OPTION NOT MARKED IS NOT APPLICABLE.

ADDITIONAL TERMS

SET-OFF — Lender may at any time before or after default exercise its right to set-off all or any portion of the indebtedness evidenced hereby against any liability or indebtedness of the Lender to the Borrower (whether owned by the Borrower alone or in conjunction with any other person or entity, provided that the Borrower has a beneficial interest therein) without prior notice to the Borrower.

DEFAULT AND ACCELERATION — The Borrower shall be in default upon the occurrence of any one or more of any of the following events: (1) the Borrower shall fail to pay, when due, any amount required hereunder or any other indebtedness of the Borrower to the Lender or any third parties; (2) the Borrower shall be in default in the performance of any covenant or obligation under the line of credit or equivalent agreement for future advances (if applicable) or any document or agreement related thereto; (3) any warranty or representation made by the Borrower shall prove to be false or misleading in any respect; (4) the Borrower or any Guarantor of this promissory note shall liquidate, merge, dissolve, terminate its existence, suspend business operations, die (if an individual), have a receiver appointed for all or any part of its property, make an assignment for the benefit of its creditors, or file or have filed against it any petition under any existing or future bankruptcy or insolvency law; (5) any change that occurs in the condition or affairs (financial or otherwise) of the Borrower or any Guarantor of this promissory note which, in the opinion of the Lender, impairs the Lender's security or increases its risk with respect to this promissory note; or (6) an event of default shall occur under any agreements intended to secure the repayment of this promissory note. Unless prohibited by law, the Lender may, at its option, declare the entire unpaid balance of principal and interest immediately due and payable without notice or demand at any time after default, as such term is defined in this paragraph.

WAIVER — Demand, presentment, protest and notice of nonpayment and dishonor of this promissory note are hereby waived.

SIGNATURES — I agree to the terms set out in this document, and acknowledge receipt of a copy of this document on today's date.

Corporate Borrower

By X _____

Its _____

Individual Borrower(s)

X _____ Borrower DAVID R. NAGLE

X _____ Borrower

© BANKERS SYSTEMS, INC., 1980, ST. CLOUD, MN FORM VRUN 2/27/85

renewal

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 SEP 11 AM 11:17

SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

RAD Referral: 89L-22
STAFF MEMBER: Sandra H. Robinson

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

RESPONDENTS: David R. Nagle
Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer
H. Daniel Holm, Jr.
Edward J. Gallagher, Jr.

RELEVANT STATUTES: 2 U.S.C. § 441a(f)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. §§ 431(8)(A) & (B)(vii)
2 U.S.C. § 432(e)(2)
11 C.F.R. §§ 100.7(a)(1)(i)

INTERNAL REPORTS CHECKED: Financial Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was referred to the Office of the General Counsel by the Reports Analysis Division ("RAD") on June 16, 1989. Attachment I. The basis for the referral was the apparent receipt of excessive contributions totaling $18,000 by the Nagle Campaign Committee from two individuals. The circumstances of the alleged excessive contributions involved a bank loan transaction.

II. FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to

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any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A).

The Act further prohibits a candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the provisions of Section 441a. In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make an expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under Section 441a. 2 U.S.C. § 441a(f).

The Act defines "contribution" to include loans made to the political committee, except that a loan made in accordance with applicable law and in the ordinary course of business by a State or federally chartered or insured bank shall not be considered a contribution from such bank. 2 U.S.C. § 431(8)(A) & (B)(vii). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan is a contribution when it is made and remains such to the extent that it remains unpaid. To the extent that it is repaid, a loan is no longer a contribution. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. Any repayment proportionately reduces the amount guaranteed or endorsed. 11 C.F.R.

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§ 100.7(a)(1)(i).

The Act provides that where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee(s). 2 U.S.C. § 432(e)(2).

B. Analysis

David R. Nagle was a candidate for the U.S. House of Representatives from the state of Iowa's 3rd Congressional District in the 1988 election cycle. He won the 1988 general election with 63% of the vote. Mr. Nagle's principal campaign committee for the 1988 elections was the Nagle '88 Committee and H. Daniel Holm, Jr., as treasurer ("the Committee").[1] In its 1988 Year End Report, filed on January 31, 1989, the Committee disclosed a $20,000 bank loan obtained on December 19, 1988, from the National Bank of Waterloo. It appears that the loan was due on demand or, alternatively, on February 1, 1989. The disclosed interest rate for the loan was 11.75%. The Committee listed only H. Daniel Holm, Jr. and Edward J. Gallagher, Jr., as guarantors for the loan. It was disclosed that each individual had guaranteed the loan in the amount of $10,000. Attachment I(7).

In response to a Request for Additional Information ("RFAI") dated March 21, 1989, Tim Raftis, a committee member, telephoned the RAD analyst and stated that the loan had been obtained in error, that it should have listed the candidate as the guarantor,

1. On June 13, 1989, the Committee amended its Statement of Organization to change the name of this committee to the Nagle Campaign Committee.

and that the loan was being re-negotiated. Mr. Raftis stated that a letter of explanation would be forthcoming. When no written response was received from the Committee, a second RFAI was sent on April 13, 1989. Mr. Holm, the committee treasurer, then telephoned the RAD Analyst and stated that the loan had been re-negotiated and that documentation had been forwarded to the Commission.

An amendment to the 1988 Year End Report was filed on April 14, 1989. Attachment I(13)-(15). The amendment consisted of a letter from the treasurer, wherein he stated that the loan had been obtained for the purpose of paying campaign debts. According to Mr. Holm, financial statements were completed by Mr. Nagle, Mr. Gallagher and himself, in connection with the loan. It was further stated that it was their "intent" that Mr. Gallagher and Mr. Holm secure the loan only to the statutory limitation and that "the bank did not fully understand our intent, and the mistake slipped by." It was also stated that Mr. Nagle had signed a new promissory note "to personally guarantee the entire amount." Although a copy of the promissory note was not included with that communication, an amended Schedule C was attached. On the amended sheet, three guarantors were listed, with Mr. Nagle guaranteeing $18,740, Mr. Holm guaranteeing $785, and Mr. Gallagher guaranteeing $475.

RAD subsequently requested copies of documentation from the Committee by telephone on May 17, 1989. Such information was requested to demonstrate the original intent of the parties to have Mr. Nagle liable as the sole guarantor of the loan. On

May 23, 1989, an amendment to the 1988 Year End Report was filed that included a copy of the promissory note. Attachment I(17)-(18). Although the cover letter stated that "Congressman Nagle was personally responsible on this loan for the full amount of the loan," the attached note does not appear to reflect that circumstance. The copy of the note is not clearly legible, however, it appears that Mr. Holm and Mr. Gallagher signed the agreement. The attached proposed interrogatories and request for documents includes a request that the respondents provide the original or legible copy of this and other documents.

Following another request from RAD, on June 7, 1989, the Committee submitted an amendment to the 1988 Year End Report that included a copy of the re-negotiated loan agreement with the National Bank of Waterloo. Attachment I(20)-(21). The agreement is dated April 3, 1989. The loan had a fixed maturity date of July 3, 1989, at an interest rate of 12%. The promissory note showed that the purpose of the loan was for "personal campaign expenses" and that it was "not secured (except for Lender's right of set-off)." Mr. Nagle's is the only signature on this agreement.[2]

The Act limits the amount an individual may contribute to a federal candidate with respect to any election to $1,000 and

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2. Prior to the filing of this last amendment to the 1988 Year End Report, the Committee filed an amendment to that report on May 24, 1989. That amendment included a Schedule A, which listed the $20,000 bank loan and designated it for the general election. On July 31, 1989, the Committee filed its 1989 Mid-Year Report. In that report the full amount of the loan is listed as still outstanding. Mr. Nagle is listed as the only guarantor of the loan.

includes an endorsement and guarantee of a loan in the definition of contribution. The Act prohibits a candidate or candidate's committee from accepting contributions that exceed the statutory contribution limitations. Commission regulations provide that loans may not exceed the contribution limitations and those that do are unlawful, even if they are repaid. See 2 U.S.C. § 441a and 11 C.F.R. § 100.7(a). Thus, the re-negotiation of the loan at issue does not negate the illegality of the alleged initial guarantees of $10,000 each by Mr. Holm and Mr. Gallagher that resulted in excessive contributions.

The Committee's statements that the guarantees were a mistake, and in its letter of April 1989, suggesting that the bank made the mistake in its statement that "the bank did not fully understand our intent," are not persuasive. It is noted that the Committee actually disclosed the loan as guaranteed in the amount of $10,000 each by Mr. Holm and Mr. Gallagher in its original 1988 Year End Report. Any mistake should have been reasonably detected at least by the time that report was completed. The loan was originally obtained in December 1988. It was not re-negotiated until April 1989, almost four months after it was obtained.

It appears that Mr. Holm and Mr. Gallagher have made excessive contributions to Mr. Nagle and the Committee by initially guaranteeing the loan in the amount of $10,000 each. Thus, it appears that Mr. Nagle, as an agent for his campaign committee, and the Committee have accepted such excessive contributions.

Based on the foregoing, this Office recommends that the Commission open a Matter Under Review ("MUR"). This Office also recommends that the Commission find reason to believe David R. Nagle and the Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, violated 2 U.S.C. § 441a(f); and find reason to believe H. Daniel Holm, Jr., individually, and Edward J. Gallagher violated 2 U.S.C. § 441a(a)(1)(A).

III. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe David R. Nagle, Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, violated 2 U.S.C. § 441a(f).

3. Find reason to believe H. Daniel Holm, Jr., and Edward J. Gallagher, Jr., violated 2 U.S.C. § 441a(a)(1)(A).

4. Approve the attached letters, Factual and Legal Analyses, and interrogatories and requests for production of documents.

9/11/89
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Referral Materials
2. Proposed Letters (4) and Factual and Legal Analyses (4)
3. Interrogatories and Request for Production of Documents (3)

9004021356

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES R. HARRIS DRH
COMMISSION SECRETARY

DATE: SEPTEMBER 14, 1989

SUBJECT: RAD REFERRAL 89L-22
FIRST GENERAL COUNSEL'S REPORT
DATED SEPTEMBER 11, 1989

The above-captioned document was circulated to the Commission on Monday, September 11, 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	xxxxx
Commissioner Elliott	xxxxx
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda for Tuesday, September 19, 1989 at 10:00 a.m.

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

2 3 0 4 0 8 1 2 5 1 7

BEFORE THE FEDERAL ELECTION COMMISSION

(MUR 2985)

In the Matter of	)	
	)	
David R. Nagle	)	
Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer	)	RAD Referral 89L-22
H. Daniel Holm, Jr.	)	
Edward J. Gallagher, Jr.	)	

CERTIFICATION

I, Hilda Arnold, recording secretary for the Federal Election Commission executive session of September 19, 1989, do hereby certify that the Commission took the following actions with respect to RAD-Referral 89L-22:

1. Failed on a vote of 2-4 to pass a motion to:

   a) exclude David R. Nagle from recommendation no. 2; and

   b) revise the interrogatories in recommendation no. 4 to David R. Nagle and instead address them to the Committee.

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

2. Decided by a vote of 4-2 to take the following actions in RAD Referral 89L-22:

   a) Open a MUR.

(continued)

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b) Find reason to believe David R. Nagle, Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, violated 2 U.S.C. § 441a(f).

c) Find reason to believe H. Daniel Holm, Jr., and Edward J. Gallagher, Jr., violated 2 U.S.C. § 441a(a)(1)(A).

d) Approve the letters, Factual and Legal Analyses, and interrogatories and requests for production of documents as recommended in the General Counsel's Report dated September 11, 1989.

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

Attest:

9/20/89
Date

Hilda Arnold
Hilda Arnold
Administrative Assistant
Office of the Secretariat

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 3, 1989

Edward J. Gallagher, Jr.
P.O. Box 2615
Waterloo, Iowa 50704

RE: MUR 2985
Edward J. Gallagher, Jr.

Dear Mr. Gallagher:

On September 19, 1989, 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 to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating 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.

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, the Commission will not entertain requests for pre-probable cause conciliation 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.

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

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 Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

9004031 2541

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

Respondent: Edward J. Gallagher, Jr. MUR 2985

GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission') in the normal course of carrying out its supervisory responsibilities. See 2. U.S.C. § 437g(a)(2).

FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A).

The Act defines "contribution" to include loans made to the political committee, except that a loan made in accordance with applicable law and in the ordinary course of business by a State or federally chartered or insured bank shall not be considered a contribution from such bank. 2 U.S.C. § 431(8)(A) & (B)(vii). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan is a contribution when it is made and remains such to the extent that it remains unpaid. To the extent that it is repaid, a loan is no

longer a contribution. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. Any repayment proportionately reduces the amount guaranteed or endorsed. 11 C.F.R. § 100.7(a).

The Act provides that where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee(s). 2 U.S.C. § 432(e)(2).

B. Analysis

On January 31, 1989, the Nagle '88 Committee ("the Committee") filed its 1988 Year End Report.[1] In that report the Committee disclosed a $20,000 bank loan obtained on December 19, 1988, from the National Bank of Waterloo. It appears that the loan was due on demand or, alternatively, on February 1, 1989. The disclosed interest rate for the loan was 11.75%. The Committee listed Edward J. Gallagher, Jr., as a guarantor for the loan. It was further disclosed that Mr. Gallagher had guaranteed the loan in the amount of $10,000.

An amendment to the 1988 Year End Report was filed on April 14, 1989. The amendment consisted of a letter from the treasurer, wherein he stated that the loan had been obtained for

1. David R. Nagle was a candidate for the U.S. House of Representatives from the state of Iowa's 3rd Congressional District in the 1988 election cycle. He won the 1988 general election with 63% of the vote. The Nagle '88 Committee was Mr. Nagle's principal campaign committee for the 1988 elections. H. Daniel Holm, Jr., was the treasurer of this committee. On June 13, 1989, the committee filed an amended Statement of Organization to change its name to the Nagle Campaign Committee.

the purpose of paying campaign debts. According to the treasurer, financial statements were completed by Mr. Nagle, Mr. Gallagher and Mr. Holm, in connection with the loan. It was further stated that it was their "intent" that Mr. Gallagher and Mr. Holm secure the loan only to the statutory limitation and that "the bank did not fully understand our intent, and the mistake slipped by." It was also stated that Mr. Nagle had signed a new promissory note "to personally guarantee the entire amount." Although a copy of the promissory note was not included with that communication, an amended Schedule C was attached. On the amended sheet, three guarantors were listed, with Mr. Nagle guaranteeing $18,740, Mr. Holm guaranteeing $785, and Mr. Gallagher guaranteeing $475.

On May, 23, 1989, an amendment to the 1988 Year End Report was filed that included a copy of the original promissory note. Although the cover letter stated that "Congressman Nagle was personally responsible on this loan for the full amount of the loan," the attached note did not reflect that circumstance. It appears that Mr. Holm and Mr. Gallagher signed the agreement.

On June 7, 1989, the Committee submitted an amendment to the 1988 Year End Report that included a copy of the re-negotiated loan agreement with the National Bank of Waterloo. The agreement was dated April 3, 1989. The loan was due on July 3, 1989, at an interest rate of 12%. The promissory note showed that the purpose of the loan was for "personal campaign expenses" and that it was "not secured (except for Lender's right of set-off)."

Mr. Nagle's is the only signature on this agreement.[2]

The Act limits the aggregate amount an individual may contribute to a federal candidate, with respect to any election, to $1,000 and includes an endorsement and guarantee of a loan in the definition of contribution. Commission regulations provide that loans may not exceed the contribution limitations and those that do are unlawful, even if they are repaid. See 2 U.S.C. § 441a and 11 C.F.R. § 100.7(a). Thus, the re-negotiation of the loan at issue does not nullify the making of an excessive contribution by Mr. Gallagher to the Committee. Such excessive contribution consisted of the initial guarantee of $10,000 by Mr. Gallagher for the $20,000 loan obtained from the National Bank of Waterloo. Thus, Mr. Gallagher made an excessive contribution to the 1988 Nagle campaign in the amount of $9,000.

Therefore, there is reason to believe Edward J. Gallagher, Jr., violated 2 U.S.C. § 441a(a)(1)(A).

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2. Prior to the filing of this last amendment to the 1988 Year End Report, the Committee filed an amendment to that report on May 24, 1989. That amendment included a Schedule A, which listed the loan and designated it for the general election. On July 31, 1989, the Committee filed its 1989 Mid-Year Report. In that report the full amount of the loan is listed as still outstanding. Mr. Nagle is listed as the only guarantor of the loan.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2985
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Edward J. Gallagher, Jr.
P.O. Box 2615
Waterloo, Iowa 50704

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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INSTRUCTIONS

In answering these interrogatories and request 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 request shall refer to the time period from December 1988 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:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"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 the 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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Interrogatories and
Request for Production of Documents

1. On or about December 19, 1988, David R. Nagle, a candidate for the U.S. House of Representatives in the 1988 election cycle, obtained a loan from the National Bank of Waterloo in the amount of $20,000. The following questions are propounded in connection with that loan.

a. State whether you were an endorser or guarantor of the loan. Identify the amount/portion of the loan guaranteed by you.

b. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee or endorse the loan.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms your guarantee or endorsement of the loan.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the loan.

2. On or about April 3, 1989, the $20,000 loan obtained from the National Bank of Waterloo, discussed in question 1, was re-negotiated. The following questions are propounded in connection with that agreement.

a. State whether you were a party to the re-negotiation of the loan. If yes, explain the capacity in which you participated in such re-negotiation.

b. State whether you have incurred any obligation under the terms of the re-negotiated loan. If yes, identify such obligation.

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c. Explain the status of your guarantee of the original loan, discussed in question 1, in relation to the re-negotiated loan.

d. State whether you are an endorser or guarantor of the re-negotiated loan and the amount/portion of the loan guaranteed.

e. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee the loan.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms your guarantee of the loan.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the re-negotiated loan.

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 3, 1989

H. Daniel Holm, Jr.
3324 Kimball Avenue
Waterloo, Iowa 50702

RE: MUR 2985
H. Daniel Holm, Jr.

Dear Mr. Holm:

On September 19, 1989, 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 to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating 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.

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, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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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.

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

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 Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

Respondent: H. Daniel Holm, Jr. MUR 2985

GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission') in the normal course of carrying out its supervisory responsibilities. See 2. U.S.C. § 437g(a)(2).

FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A).

The Act defines "contribution" to include loans made to the political committee, except that a loan made in accordance with applicable law and in the ordinary course of business by a State or federally chartered or insured bank shall not be considered a contribution from such bank. 2 U.S.C. § 431(8)(A) & (B)(vii). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan is a contribution when it is made and remains such to the extent that it remains unpaid. To the extent that it is repaid, a loan is no

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longer a contribution. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. Any repayment proportionately reduces the amount guaranteed or endorsed. 11 C.F.R. § 100.7(a).

The Act provides that where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee(s). 2 U.S.C. § 432(e)(2).

B. Analysis

On January 31, 1989, the Nagle '88 Committee ("the Committee") filed its 1988 Year End Report.[1] In that report the Committee disclosed a $20,000 bank loan obtained on December 19, 1988, from the National Bank of Waterloo. It appears that the loan was due on demand or, alternatively, on February 1, 1989. The disclosed interest rate for the loan was 11.75%. The Committee listed H. Daniel Holm, Jr., as a guarantor for the loan. It was further disclosed that Mr. Holm had guaranteed the loan in the amount of $10,000.

An amendment to the 1988 Year End Report was filed on April 14, 1989. The amendment consisted of a letter from the Mr. Holm, as treasurer, wherein he stated that the loan had been

1. David R. Nagle was a candidate for the U.S. House of Representatives from the state of Iowa's 3rd Congressional District in the 1988 election cycle. He won the 1988 general election with 63% of the vote. The Nagle '88 Committee was Mr. Nagle's principal campaign committee for the 1988 elections. H. Daniel Holm, Jr., was the treasurer of this committee. On June 13, 1989, the committee filed an amended Statement of Organization to change its name to the Nagle Campaign Committee.

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obtained for the purpose of paying campaign debts. According to Mr. Holm, financial statements were completed by Mr. Nagle, Mr. Gallagher and himself, in connection with the loan. It was further stated that it was their "intent" that Mr. Gallagher and Mr. Holm secure the loan only to the statutory limitation and that "the bank did not fully understand our intent, and the mistake slipped by." It was also stated that Mr. Nagle had signed a new promissory note "to personally guarantee the entire amount." Although a copy of the promissory note was not included with that communication, an amended Schedule C was attached. On the amended sheet, three guarantors were listed, with Mr. Nagle guaranteeing $18,740, Mr. Holm guaranteeing $785, and Mr. Gallagher guaranteeing $475.

On May, 23, 1989, an amendment to the 1988 Year End Report was filed that included a copy of the promissory note. Although the cover letter stated that "Congressman Nagle was personally responsible on this loan for the full amount of the loan," the attached note did not reflect that circumstance. It appears that Mr. Holm and Mr. Gallagher signed the agreement.

On June 7, 1989, the Committee submitted an amendment to the 1988 Year End Report that included a copy of the re-negotiated loan agreement with the National Bank of Waterloo. The agreement was dated April 3, 1989. The loan was due on July 3, 1989, at an interest rate of 12%. The promissory note showed that the purpose of the loan was for "personal campaign expenses" and that it was "not secured (except for Lender's right of set-off)."

Mr. Nagle's is the only signature on this agreement.[2]

The Act limits the aggregate amount an individual may contribute to a federal candidate with respect to any election to $1,000 and includes an endorsement and guarantee of a loan in the definition of contribution. Commission regulations provide that loans may not exceed the contribution limitations and those that do are unlawful, even if they are repaid. See 2 U.S.C. § 441a and 11 C.F.R. § 100.7(a). Thus, the re-negotiation of the loan at issue does not nullify the making of an excessive contribution by Mr. Holm to the Committee. Such excessive contribution consisted of the initial guarantee of $10,000 by Mr. Holm for the $20,000 loan obtained from the National Bank of Waterloo. Thus, Mr. Holm made an excessive contribution to the 1988 Nagle campaign in the amount of $9,000.

Therefore, there is reason to believe H. Daniel Holm, Jr., violated 2 U.S.C. § 441a(a)(1)(A).

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2. Prior to the filing of this last amendment to the 1988 Year End Report, the Committee filed an amendment to that report on May 24, 1989. That amendment included a Schedule A, which listed the loan and designated it for the general election. On July 31, 1989, the Committee filed its 1989 Mid-Year Report. In that report the full amount of the loan is listed as still outstanding. Mr. Nagle is listed as the only guarantor of the loan.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2985
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: H. Daniel Holm, Jr.
3324 Kimball Avenue
Waterloo, Iowa 50702

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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INSTRUCTIONS

In answering these interrogatories and request 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 request shall refer to the time period from December 1988 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:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"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 the 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.

Interrogatories and
Request for Production of Documents

1. On or about December 19, 1988, David R. Nagle, a candidate for the U.S. House of Representatives in the 1988 election cycle, obtained a loan from the National Bank of Waterloo in the amount of $20,000. The following questions are propounded in connection with that loan.

a. State whether you were an endorser or guarantor of the loan. Identify the amount/portion of the loan guaranteed by you.

b. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee the loan.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms your guarantee of the loan.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the loan.

2. On or about April 3, 1989, the $20,000 loan with the National Bank of Waterloo, discussed in question 1, was re-negotiated. The following questions are propounded in connection with that agreement.

a. State whether you were a party to the re-negotiation of the loan. If yes, explain the capacity in which you participated in such re-negotiation.

b. State whether you have incurred any obligation under the terms of the re-negotiated loan. If yes, identify such obligation.

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c. Explain the status of your guarantee of the original loan, discussed in question 1, in relation to the re-negotiated loan.

d. State whether you are an endorser or guarantor of the re-negotiated loan and the amount/portion of the loan guaranteed.

e. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee the loan.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms your guarantee of the loan.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

(v) any documents that demonstrate a release and/or satisfaction of your obligations with respect to the re-negotiated loan.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1989

Representative David R. Nagle
U.S. House of Representatives
214 Cannon HOB
Washington, D.C. 20515-1503

RE: MUR 2985
David R. Nagle

Dear Mr. Nagle:

On September 19, 1989, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441a(f), 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 to the General Counsel's Office along with answers to the enclosed questions within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating 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.

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, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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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.

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

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 Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Questions

cc: Nagle Campaign Committee

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: David R. Nagle MUR 2985

GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A).

The Act further prohibits a candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the provisions of Section 441a. 2 U.S.C. § 441a(f).

The Act defines "contribution" to include loans made to the political committee, except that a loan made in accordance with applicable law and in the ordinary course of business by a State or federally chartered or insured bank shall not be considered a contribution from such bank. 2 U.S.C. § 431(8)(A) & (B)(vii). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." Further, loans may

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not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan is a contribution when it is made and remains such to the extent that it remains unpaid. To the extent that it is repaid, a loan is no longer a contribution. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. Any repayment proportionately reduces the amount guaranteed or endorsed. 11 C.F.R. § 100.7(a).

The Act provides that where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee(s). 2 U.S.C. § 432(e)(2).

B. Analysis

David R. Nagle was a candidate for the U.S. House of Representatives from the state of Iowa's 3rd Congressional District in the 1988 election cycle. He won the 1988 general election with 63% of the vote. Mr. Nagle's principal campaign committee for the 1988 elections was the Nagle '88 Committee and H. Daniel Holm, Jr., as treasurer ("the Committee").[1] In its 1988 Year End Report, the Committee disclosed a $20,000 bank loan obtained on December 19, 1988, from the National Bank of Waterloo. It appears that the loan was due on demand, or alternatively, on February 1, 1989. The disclosed interest rate

1. On June 13, 1989, the Committee amended its Statement of Organization to change the name of this committee to the Nagle Campaign Committee.

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for the loan was 11.75%. The Committee listed only H. Daniel Holm, Jr. and Edward J. Gallagher, Jr., as endorsers or guarantors for the loan. It was further disclosed that each individual had guaranteed the loan in the amount of $10,000.

An amendment to the 1988 Year End Report was filed on April 14, 1989. The amendment consisted of a letter from the treasurer, wherein he stated that the loan had been obtained for the purpose of paying campaign debts and that Mr. Nagle, Mr. Gallagher, and Mr. Holm completed financial statements in connection with the loan. It was further stated that it was their "intent" that Mr. Gallagher and Mr. Holm secure the loan only to the statutory limitation and that "the bank did not fully understand our intent, and the mistake slipped by." It was also stated that Mr. Nagle had signed a promissory note "to personally guarantee the entire amount." Although a copy of the promissory note was not included with that communication, an amended Schedule C was attached. On the amended sheet, three endorsers are listed, with Mr. Nagle guaranteeing $18,740, Mr. Holm guaranteeing $785, and Mr. Gallagher guaranteeing $475.

On May, 23, 1989, an amendment to the 1988 Year End Report was filed that included a copy of the promissory note. Although the cover letter states that "Congressman Nagle was personally responsible on this loan for the full amount of the loan," the attached promissory note did not reflect that circumstance. It appears that Mr. Holm and Mr. Gallagher signed the agreement.

On June 7, 1989, the Committee submitted an amendment to the 1988 Year End Report that included a copy of the re-negotiated

loan agreement with the National Bank of Waterloo. The agreement was effective as of April 3, 1989. The loan was due on July 3, 1989, at an interest rate of 12%. The promissory note showed that the purpose of the loan was for "personal campaign expenses" and that it was "not secured (except for Lender's right of set-off)." Mr. Nagle's is the only signature on this agreement.[2]

The Act limits the amount an individual may contribute to a federal candidate with respect to any election to $1,000 and includes an endorsement and guarantee of a loan in the definition of contribution. The Act prohibits a candidate from accepting contributions that exceed the contribution limitations. Commission regulations provide that loans may not exceed the contribution limitations and those that do are unlawful, even if they are repaid. See 2 U.S.C. § 441a and 11 C.F.R. § 100.7(a). Thus, the re-negotiation of the loan at issue does not nullify the acceptance of excessive contributions by Mr. Nagle, as an agent for his campaign committee. Such excessive contributions consisted of the initial guarantees for $10,000 each by Mr. Holm and Mr. Gallagher for the $20,000 loan obtained from the National Bank of Waterloo. Thus, Mr. Nagle accepted an excessive contribution from Mr. Holm and an excessive contribution from Mr. Gallagher, each in the amount of $9,000.

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2. Prior to the filing of this last amendment to the 1988 Year End Report, the Committee filed an amendment to that report on May 24, 1989. That amendment included a Schedule A listing the loan and designating it for the general election. On July 31, 1989, the Committee filed its 1989 Mid-Year Report. In that report the full amount of the loan is listed as still outstanding. Mr. Nagle is listed as the only guarantor of the loan.

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Therefore, there is reason to believe David R. Nagle accepted excessive contributions in violation of 2 U.S.C. § 441a(f).

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2985
)

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Representative David R. Nagle
U.S. House of Representatives
214 Cannon HOB
Washington, D.C. 20515-1503

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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INSTRUCTIONS

In answering these interrogatories and request 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 request shall refer to the time period from December 1988 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:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"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 the 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.

Interrogatories and
Request for Production of Documents

1. On or about December 19, 1988, you obtained a loan from the National Bank of Waterloo in the amount of $20,000. The following questions are propounded in connection with that loan.

a. Identify the purpose of the loan.

b. Identify all endorsers and guarantors of the loan and the amount/portion of the loan guaranteed by each.

c. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to obtain the loan.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms of the loan.

(iii) any documents, in your possession, that were submitted by the endorsers or guarantors to the bank in order to obtain the loan.

(iv) any written agreements between the endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

2. On or about April 3, 1989, you re-negotiated the $20,000 loan with the National Bank of Waterloo. The following questions are propounded in connection with that agreement.

a. State the reason(s) for re-negotiating the loan agreement.

b. Identify all endorsers and guarantors of the re-negotiated loan and the amount/portion of the loan guaranteed by each.

c. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to re-negotiate the loan.

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(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms of the re-negotiated loan.

(iii) any documents, in your possession, that were submitted by the endorsers or guarantors to the bank in order to re-negotiate the loan.

(iv) any written agreements between the endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

3. State whether any payments have been made to the National Bank of Waterloo on the loan. If yes, identify the date and amount of each payment. Identify the source of the funds used to make such payment(s). Provide a copy of any documents that demonstrate such payment(s).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 3, 1989

H. Daniel Holm, Jr., Treasurer
Nagle Campaign Committee
P.O. Box 792
Waterloo, Iowa 50704

RE: MUR 2985
Nagle Campaign Committee
and H. Daniel Holm, Jr.,
as treasurer

Dear Mr. Holm:

On September 19, 1989, the Federal Election Commission found that there is reason to believe the Nagle Campaign Committee ("Committee") and you, as treasurer, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 the Committee and you, as treasurer. 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 to the General Counsel's Office, along with answers to the enclosed questions, within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating 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.

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, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

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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.

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

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 Sandra H. Robinson, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

cc: Representative David R. Nagle

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

Respondents: Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer

MUR 2985

GENERATION OF MATTER

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

FACTUAL AND LEGAL ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A).

The Act further prohibits a candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the provisions of Section 441a. In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make an expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under Section 441a. 2 U.S.C. § 441a(f).

The Act defines "contribution" to include loans made to the political committee, except that a loan made in accordance with

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applicable law and in the ordinary course of business by a State or federally chartered or insured bank shall not be considered a contribution from such bank. 2 U.S.C. § 431(8)(A) & (B)(vii). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan is a contribution when it is made and remains such to the extent that it remains unpaid. To the extent that it is repaid, a loan is no longer a contribution. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. Any repayment proportionately reduces the amount guaranteed or endorsed. 11 C.F.R. § 100.7(a).

The Act provides that where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee(s). 2 U.S.C. § 432(e)(2).

B. Analysis

The Nagle '88 Committee and H. Daniel Holm, Jr., as treasurer ("the Committee"), was the principal campaign committee for David R. Nagle, a candidate for the U.S. House of Representatives from the state of Iowa's 3rd Congressional District in the 1988 election cycle.[1] In its 1988 Year End Report, the Committee disclosed a $20,000 bank loan obtained on

1. On June 13, 1989, the Committee amended its Statement of Organization to change its name to the Nagle Campaign Committee.

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December 19, 1988, from the National Bank of Waterloo. It appears that the loan was due on demand or, alternatively, on February 1, 1989. The disclosed interest rate for the loan was 11.75%. The Committee listed only H. Daniel Holm, Jr. and Edward J. Gallagher, Jr., as guarantors for the loan. It was further disclosed that each individual had guaranteed the loan in the amount of $10,000.

In response to a Request for Additional Information ("RFAI") from the Commission's Reports Analysis Division, dated March 21, 1989, an amendment to the 1988 Year End Report was filed on April 14, 1989. The amendment consisted of a letter from the treasurer, wherein he stated that the loan had been obtained for the purpose of paying campaign debts. According to Mr. Holm, financial statements were completed by Mr. Nagle, Mr. Gallagher and himself, in connection with the loan. It was further stated that it was their "intent" that Mr. Gallagher and Mr. Holm secure the loan only to the statutory limitation and that "the bank did not fully understand our intent, and the mistake slipped by." It was also stated that Mr. Nagle had signed a new promissory note "to personally guarantee the entire amount." Although a copy of the promissory note was not included with that communication, an amended Schedule C was attached. On the amended sheet, three guarantors were listed, with Mr. Nagle guaranteeing $18,740, Mr. Holm guaranteeing $785, and Mr. Gallagher guaranteeing $475.

On May, 23, 1989, an amendment to the 1988 Year End Report was filed that included a copy of the promissory note. Although the cover letter stated that "Congressman Nagle was personally

responsible on this loan for the full amount of the loan," the attached note did not reflect that circumstance. It appears that Mr. Holm and Mr. Gallagher signed the agreement.

On June 7, 1989, the Committee submitted an amendment to the 1988 Year End Report that included a copy of the re-negotiated loan agreement with the National Bank of Waterloo. The agreement was effective as of April 3, 1989. The loan was due on July 3, 1989, at an interest rate of 12%. The promissory note showed that the purpose of the loan was for "personal campaign expenses" and that it was "not secured (except for Lender's right of set-off)." Mr. Nagle's is the only signature on this agreement.[2]

The Act limits the aggregate amount an individual may contribute to a federal candidate with respect to any election to $1,000 and includes an endorsement and guarantee of a loan in the definition of contribution. The Act prohibits a candidate or candidate's committee from accepting contributions that exceed the statutory contribution limitations. Commission regulations provide that loans may not exceed the contribution limitations and those that do are unlawful, even if they are repaid. See 2 U.S.C. § 441a and 11 C.F.R. § 100.7(a). Thus, the re-negotiation of the loan at issue does not nullify the acceptance of excessive contributions by the Committee. Such

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2. Prior to the filing of this last amendment to the 1988 Year End Report, the Committee filed an amendment to that report on May 24, 1989. That amendment included a Schedule A, which listed the loan and designated it for the general election. On July 31, 1989, the Committee filed its 1989 Mid-Year Report. In that report the full amount of the loan is listed as still outstanding. Mr. Nagle is listed as the only guarantor of the loan.

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excessive contributions consisted of the initial guarantees of $10,000 each by Mr. Holm and Mr. Gallagher for the $20,000 loan obtained from the National Bank of Waterloo. Thus, the Committee accepted an excessive contribution from Mr. Holm and an excessive contribution from Mr. Gallagher, each in the amount of $9,000.

Therefore, there is reason to believe the Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, violated 2 U.S.C. § 441a(f).

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MANATT, PHELPS, ROTHENBERG & PHILLIPS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
ATTORNEYS AT LAW

1200 NEW HAMPSHIRE AVENUE, N.W.
SUITE 200
WASHINGTON, D.C. 20036

TELEPHONE (202) 463-4300
FAX (202) 463-4394
(202) 463-4395

LOS ANGELES
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064
(213) 312-4000

October 20, 1989

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

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Danny L. McDonald
Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2985

Dear Chairman McDonald:

This response to the above-referenced matter is submitted on behalf of Congressman David R. Nagle, H. Daniel Holm, Jr. and Edward J. Gallagher, Jr. By notification received by Congressman Nagle on October 5, and by Mr. Holm and Mr. Gallagher on October 6, 1989, the respondents were informed that the Commission has found reason to believe that they violated 2 U.S.C. § 441a of the Federal Election Campaign Act of 1971 as amended ("FECA" or the "Act"), 2 U.S.C. § 431 et seq., in connection with a loan obtained by Congressman Nagle for consolidation of debt and payment of final staff expenses for his 1988 campaign. For the reasons set forth below, the respondents request that the Federal Election Commission ("FEC" or "Commission") take no further action in this matter. Alternatively, the respondents hereby request that the Commission enter into pre-probable cause conciliation.

I. Congressman Nagle is improperly named as a respondent in this matter.

The FEC notification of October 3, 1989 to Congressman David R. Nagle states that the Commission found reason to believe that he violated 2 U.S.C. § 441a(f), which prohibits knowing acceptance of an excessive contribution. The accompanying FEC Factual and Legal Analysis, however, correctly notes that a candidate who obtains a bank loan for use in his campaign is considered an agent of his authorized committee in obtaining that loan. Thus, it is a departure from prior Commission practice and directly

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contrary to the underlying intent of 2 U.S.C. § 432(e)(2) for Congressman Nagle himself to be a respondent in this matter.[1/]

2 U.S.C. § 432 was amended in 1979 precisely to clarify that a candidate who accepts contributions, makes expenditures or obtains loans for use in his campaign does so as an agent of the campaign. The entire statutory scheme is premised on the responsibility, not of the candidate personally, but of the treasurer of a committee to oversee receipts and disbursements and to exercise best efforts to comply with the law. 2 U.S.C. § 432. Thus, if the Commission finds that a contribution received by the candidate as an agent of his committee may have resulted in a violation, it is the candidate's principal campaign committee or other authorized committee against which the Commission finds reason to believe, and not the candidate. Accordingly, Congressman Nagle should not be a respondent in this matter and should be dismissed.

II. The endorsements of this loan were based upon a misunderstanding and mistake as to the requirements of the FECA.

After the 1988 general election, the Nagle '88 Committee, the principal campaign committee of Congressman David R. Nagle, anticipated outstanding debts of approximately $30,000. The Committee wished to pay off its vendor debts and final staff salaries as quickly as possible and concluded that this could be accomplished most effectively by obtaining a short-term debt consolidation loan in the amount of $20,000. As Treasurer of the Committee, Dan Holm contacted the National Bank of Waterloo to arrange for a loan. It was clearly understood between the Committee and the Bank that the funds were to defray campaign expenses and that the Committee anticipated raising contributions to repay the loan. Congressman Nagle himself signed the note. Additionally, Mr. Holm, Treasurer of the Committee, and Edward J. Gallagher, Jr., a member of Congressman Nagle's Committee, also endorsed the note.

As set forth in the attached affidavits of H. Daniel Holm, Jr., and Edward J. Gallagher, Jr., neither individual believed that there was any possibility that he would in any way be responsible to repay the loan personally. Because the funds were

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1/ The FEC reason to believe letter was sent to the Congressman personally at his Capitol Hill office address. This is also a departure from Commission practice. This notification concerning a loan disclosed by his campaign committee should clearly have been sent to his Treasurer at the Committee's address on file at the FEC.

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going to the Committee and were to be used for campaign debts, both individuals believed that their signatures on the note were mere formalities. In the event that the Committee did not raise sufficient funds to repay the note, Congressman Nagle was personally liable and both Mr. Holm and Mr. Gallagher knew that his personal assets would be sufficient to repay the loan if it was necessary. Moreover, both Mr. Holm and Mr. Gallagher were unaware that a co-signer, guarantor or endorser is considered a contributor under FECA. Since neither individual thought of himself as responsible to repay the note personally, it did not occur to them or to the Committee that their signatures in any way could be deemed a contribution. Finally, since the loan was obtained after the election, there was obviously no intent on the part of either individual to influence the election.

Congressman Nagle signed the note and believed he was personally responsible to repay it in the event that insufficient contributions were raised. The Congressman's financial statement was the only one submitted in connection with the loan. The Congressman himself never requested that anyone else sign or endorse the loan.

III. As soon as the Committee became aware of the problem with the loan, immediate steps were taken to rectify the situation.

Upon notification last March by the FEC Reports Analysis Division that the loan as reported raised the issue of excessive contributions, the Committee immediately contacted the Bank to renegotiate the loan.[2/] The loan was renegotiated April 3, 1989 and signed only by Congressman Nagle. No other signature, guarantee or endorsement was made.

2/ The loan was fully reported at all times, and the Committee's disclosure report listed Mr. Holm and Mr. Gallagher as endorsers. Thus, it is clear that the parties were unaware that an endorsement or guarantee was considered a contribution, and that their intention at all times was to comply with the law and fully report the funds obtained for use in the campaign. The subsequent amendment to the report after April 3 disclosing Mr. Holm and Mr. Gallagher as endorsers at reduced amounts was based upon a misunderstanding of discussions with the Reports Analysis Division. Of course, once the note was renegotiated and Mr. Holm and Mr. Gallagher were no longer endorsers, there was no need to report their names in connection with the loan.

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As of this date, $5,000 has been repaid to the Bank from the proceeds from an August debt retirement fundraiser. The Committee has other plans to raise funds to pay the remaining obligation.

IV. The Commission should take no further action with respect to this matter.

In light of the circumstances outlined above, the Commission should take no further action in this matter. The loan itself was obtained after the election so there was clearly no intent to influence it. The endorsements by Mr. Holm and Mr. Gallagher were made with the understanding that it was permissible, that their signatures were mere formalities, that they would not be responsible personally to repay the note, that the Committee would raise sufficient funds to repay the note, and that the Congressman had sufficient personal assets to repay the loan if necessary. That the parties were acting in good faith based upon a misunderstanding of the FECA is made clear by the fact that the loan was fully reported, including the names of the endorsers.[3/] Finally, as soon as the parties were made aware of the problem, the loan was immediately renegotiated without the additional endorsements.

For the foregoing reasons, the Commission should take no further action in this matter. If the Commission determines not to close the file in this matter at this time, the respondents request pre-probable conciliation and ask that the Commission consider the facts outlined above in mitigation of what was at worst a technical violation based upon a misunderstanding of the Act.

Respectfully submitted,

Lyn Utrecht

Lyn Utrecht
Manatt, Phelps, Rothenberg,
& Phillips

3/ In addition, the amount of the loan was only $20,000. This relatively small amount also suggests that the additional signatures were based upon a misunderstanding of the law and not in any attempt to circumvent the contribution limitations or otherwise obtain funds in any impermissible manner, particularly since the loan was obtained after the election for the purpose of debt consolidation.

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EXHIBIT A

the original affidavit will be forwarded when received.

AFFIDAVIT OF H. DANIEL HOLM, JR.

H. Daniel Holm, Jr., being duly sworn states as follows:

1. I am treasurer of the Nagle '88 Committee which was the 1988 principal campaign committee of David R. Nagle, U.S. House of Representatives, 3rd Congressional District of Iowa.

2. After the 1988 general election, the Nagle '88 Committee had outstanding debts of approximately $30,000. In order to consolidate these debts and pay the campaign's vendors as quickly as possible, Congressman Nagle or someone on his staff requested that I contact The National Bank of Waterloo concerning a loan to pay the campaign's outstanding debts.

3. At no time did Congressman Nagle ask me to sign the loan, to guarantee the loan or to assume any personal obligation to repay the loan.

4. Sometime in December of 1988, I contacted the bank to arrange for a loan. It was clearly understood that the Congressman would sign the note and that the funds were to be used to pay campaign debts. Since I viewed the loan as to the campaign committee, I viewed my signature as merely a formality. I have known Congressman Nagle for years and I knew that he had sufficient assets personally to pay the obligation and that he would never call on me to do so. I did not believe or intend that I would have any obligation to personally repay the note; rather, I

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believed that Congressman Nagle was personally responsible to repay it in the event that the committee did not raise sufficient funds to repay it.

5. I was not aware that Federal election law treats a co-signer, endorser or guarantor as a contributor, and, therefore, I had no intention of making an excessive contribution to Congressman Nagle's campaign.

6. As soon as it was brought to our attention that there was a problem with the loan, we took immediate steps to remove my name and that of Edward Gallagher from the loan.

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and belief. Executed on October 19, 1989.

H. Daniel Holm, Jr.

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EXHIBIT B

AFFIDAVIT OF EDWARD J. GALLAGHER, JR.

Edward J. Gallagher, Jr., being duly sworn, states as follows:

1. I am a resident of Waterloo, Iowa, where I have been a practicing attorney of law since 1951.

2. I have known Congressman David R. Nagle for several years. Prior to his election to Congress, for several years he was engaged in the practice of law across the street from my office. I have great respect for him as a lawyer and Member of Congress.

3. I do not recall the precise date, but sometime in late 1988, Daniel Holm, Treasurer of the Nagle '88 Committee, informed me that the campaign was going to borrow approximately $20,000 from the National Bank of Waterloo. At no time did I receive a communication orally or otherwise from Congressman Nagle regarding this.

4. Since I have known Congressman Nagle for years and have been a customer of the Bank for 38 years, I agreed to endorse the note. I did not believe or intend that I would have any obligation to personally repay the note. I believed that Congressman Nagle was personally responsible to repay it; I knew that he had sufficient assets personally to pay the obligation and that he would never call on me to do so. Since I knew the proceeds were

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to be used for the campaign committee, I viewed my signature more as a commitment by the committee to raise funds to repay the loan.

5. I was not aware that Federal election law treats a co-signer, endorser or guarantor as a contributor, and, therefore, I had no intention of making an excessive contribution to Congressman Nagle's campaign.

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and belief. Executed on October 19, 1989.

Edward J. Gallagher, Jr.

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2985

NAME OF COUNSEL: Lyn Utrecht

ADDRESS: 1200 New Hampshire NW, Suite 200
Washington, D.C. 20036

TELEPHONE: 202- 463-4320

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

10/16/89
Date

Edward J. Gallagher III
Signature

RESPONDENT'S NAME: Edward J. Gallagher, III

ADDRESS: 405 East 5th Street
Waterloo, Iowa 50703

HOME PHONE: 319-233-7233

BUSINESS PHONE: 319-233-6163

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2985

NAME OF COUNSEL: Lyn Utrecht

ADDRESS: Manatt, Phelps, Rothenberg & Phillips
Suite 200
1200 New Hampshire Avenue, N.W.

Washington, D.C. 20036

TELEPHONE: 202-463-4320

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

10-6-89
Date

Signature

RESPONDENT'S NAME: H. Daniel Holm, Jr.

ADDRESS: 3324 Kimball Avenue, P O Box 2696

Waterloo IA 50702

HOME PHONE: 319-277-4648

BUSINESS PHONE: 319-234-2638

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2985

NAME OF COUNSEL: Lyn Utrecht

ADDRESS: Manatt, Phelps, Rothenberg & Phillips
Suite 200
1200 New Hampshire Avenue, N.W.

Washington, D.C. 20036

TELEPHONE: 202-463-4320

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

10-18-89
Date

Signature

RESPONDENT'S NAME: David R. Nagle

ADDRESS: 4935 N. Union

Cedar Falls, IA 50613

HOME PHONE: 319-266-3194

BUSINESS PHONE: 202-225-3301

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2985
David R. Nagle	)	

RESPONSE OF DAVID R. NAGLE TO
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

1. On or about December 19, 1988, you obtained a loan from the National Bank of Waterloo in the amount of $20,000. The following questions are propounded in connection with that loan.

a. Identify the purpose of the loan.

ANSWER: The purpose of this loan was to consolidate debts outstanding from Congressman Nagle's 1988 campaign.

b. Identify all endorsers and guarantors of the loan and the amount/portion of the loan guaranteed by each.

ANSWER: The original promissory note was signed by Congressman Nagle and endorsed by H. Daniel Holm, Jr. and Edward J. Gallagher, Jr. No specific amount of endorsement is stated on the loan document. As set forth in the affidavits of Daniel Holm and Edward Gallagher (attached as Exhibits A and B to the Response to the FEC's finding of reason to believe) all of the parties intended and

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believed that Congressman Nagle was fully liable to repay the loan personally or with campaign contributions received. Neither Daniel Holm nor Edward Gallagher intended to assume any obligation that was not permissible under the law.

c. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to obtain the loan.

ANSWER: Copies of financial statements submitted by Congressman Nagle are attached.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms of the loan.

ANSWER: Copies of the original note dated December 19, 1988, a renewal noted dated February 1, 1989 and a renewal note dated April 3, 1989 are attached.

(iii) any documents, in your possession, that were submitted by the endorsers or guarantors to the bank in order to obtain the loan.

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ANSWER: None.

(iv) any written agreements between the endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

ANSWER: None.

2. On or about April 3, 1989, you re-negotiated the $20,000 loan with the National Bank of Waterloo. The following questions are propounded in connection with that agreement.

a. State the reason(s) for re-negotiating the loan agreement.

ANSWER: The March 21, 1989 letter from the FEC Reports Analysis Division made the Committee aware for the first time of the question concerning the endorsements. The Committee promptly amended Schedule C per the advice of the Reports Analysis Division. Congressman Nagle and the Committee also immediately took steps to renew the loan without any other endorsement or guarantee so that there would be no question that the Congressman was solely and fully responsible for repayment of the loan by his committee.

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b. Identify all endorsers and guarantors of the re-negotiated loan and the amount/portion of the loan guaranteed by each.

ANSWER: The only signatory on the April 3, 1989 note is Congressman Nagle. There are no other guarantees or endorsements.

c. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to re-negotiate the loan.

ANSWER: A copy of Congressman Nagle's financial statement is attached.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms of the re-negotiated loan.

ANSWER: A copy of the note dated April 3, 1989 is attached.

(iii) any documents, in your possession, that were

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submitted by the endorsers or guarantors to the bank in order to re-negotiate the loan.

ANSWER: None.

(iv) any written agreements between the endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

ANSWER: None.

3. State whether any payments have been made to the National Bank of Waterloo on the loan. If yes, identify the date and amount of each payment. Identify the source of the funds used to make such payment(s). Provide a copy of any documents that demonstrate such payment(s).

ANSWER: $5,000 was paid on September 26, 1989 from the proceeds of a debt retirement fundraiser held in August 1989.

I declare under penalty of perjury that the foregoing answers are true and correct to the best of my knowledge and belief. Executed on October 19, 1989.

Dave Nagle

David R. Nagle

9004031257 6

PROMISSORY NOTE:

{ [X] Fixed Rate; [ ] Variable } { [ ] Single Advance; [X] Multiple Advance; } { [X] Business or Agricultural; [ ] _____ } { [ ] Demand; [X] Feb. 1, 1989 Fixed Maturity Date }

CAUTION: SEPARATE TRUTH IN LENDING DISCLOSURES ARE NECESSARY UNLESS TRANSACTION EXEMPT UNDER 12 C.F.R. 226.3.

The undersigned Borrower (if more than one, jointly and severally, and hereafter referred to as Borrower) promises to pay to the order of

Lender NATIONAL BANK OF WATERLOO
at WATERLOO, IOWA 50704

Date 12-19, 19 88
LOAN NO. _____
REN'L OF _____
INDEX RATE 11 3/4 % (as of the date hereof)

Borrower(s) Name(s) and Address(es)
David R. Hagle
4935 N. Union Rd.
Cedar Falls, Iowa 00613

PRINCIPAL AND INTEREST

[ ] the principal sum of $ _____

[X] the amount of the principal advance made by the Lender to the Borrower on the date hereof $ 20,000.00
plus advances made to Borrower from time to time hereafter pursuant to the line of credit (or equivalent) agreement dated 12-19, 19 88
less any payments made by Borrower on this note hereafter allocated to principal, subject to a maximum principal indebtedness at any one time of $ 20,000.00

The unpaid principal balances remaining from time to time shall bear **INTEREST**, computed daily, at an annual rate of 11 3/4 %

[ ] The above interest rate shall be fixed until this note is paid in full subject to any post maturity interest rate specified below.

[ ] Subject to any maximum and minimum rates specified below, the above interest rate on this note shall from time to time hereafter be adjusted to be _____ %

[ ] _____ the following selected **INDEX RATE**

[ ] The discount rate on 90 day commercial paper in effect at the Federal Reserve Bank of _____

[ ] _____

[ ] Changes hereafter in the **INDEX RATE** shall take effect on this note on the

[ ] same day

[ ] day following the day

[ ] _____

such changes in the **INDEX RATE** take effect, and shall thereafter remain in effect until and including the day preceding the next adjustment date.

[ ] The interest rate on this note shall not, for any one day, exceed the following annual rate _____ %

[ ] The interest rate on this note shall not, for any one day, be less than the following annual rate _____ %

[ ] The interest rate on this note after maturity, including maturity by acceleration, shall be

[ ] The interest rate, without adjustment after maturity, in effect at maturity

[ ] An annual rate, without adjustment after maturity, equal to _____ %

[ ] At an annual rate, with adjustments determined on the same basis as the rate before maturity

PAYMENTS AND SECURITY

Accrued interest shall be paid (select one or more):

[ ] monthly beginning on _____, 19 ____ and the same day of each month thereafter, and

[ ] quarterly beginning _____, 19 ____ and on the same day of each third month thereafter, and

[ ] semi-annually beginning _____, 19 ____ and on the same day of each sixth month thereafter, and

[ ] _____

[X] at maturity, including maturity upon acceleration after default and, if applicable, on demand.

Principal shall be payable:

[ ] on demand.

[ ] on demand, but if no demand is made then on Feb. 1, 19 89

[ ] by installments beginning _____, 19 ____

and on the same day of each _____

thereafter, each in an amount not less than $ _____

(exclusive of interest) until _____, 19 ____ at which time the entire unpaid balance of principal and interest shall be due and payable.

[ ] _____

This promissory note is:

[ ] not secured (except for Lender's right of set off).

[ ] secured (in addition to Lender's right of set off) by a

[ ] Mortgage or equivalent lien on Real Estate dated _____, 19 ____

[ ] Security Interest in one or more types of personal property effective _____, 19 ____

Notwithstanding anything to the contrary contained herein, all payments made by Borrower to Lender hereafter shall be applied first toward interest and the balance toward principal.

Borrower may prepay this note at any time prior to maturity without penalty, but any partial prepayments shall not relieve or diminish any scheduled subsequent payments of principal or interest until all obligations are paid in full.

Except where prohibited by law, the Borrower promises to pay all costs of collection, including but not limited to reasonable attorney's fees, at any time paid or incurred by the Lender on account of such collection, whether or not suit is filed with respect thereto.

Borrower hereby warrants and represents that the proceeds of this note will be used solely for the following purposes: PERSONAL Expenses

ANY SEPARATE CLAUSE OR SENTENCE ON THIS NOTE PRECEDED BY A [ ] IS AN OPTION TO BE SELECTED AND MARKED BY THE PARTIES HERETO AT THE TIME OF SIGNING. ANY OPTION NOT MARKED IS NOT APPLICABLE.

ADDITIONAL TERMS

SET OFF — Lender may at any time before or after default exercise its right to set-off all or any portion of the indebtedness evidenced hereby against any liability or indebtedness of the Lender to the Borrower, whether owned by the Borrower alone or in conjunction with any other person or entity, provided that the Borrower has a beneficial interest therein, without prior notice to the Borrower.

DEFAULT AND ACCELERATION — The Borrower shall be in default upon the occurrence of any one or more of any of the following events: (1) the Borrower shall fail to pay, when due, any amount required hereunder, or any other indebtedness of the Borrower to the Lender or any third parties; (2) the Borrower shall be in default in the performance of any covenant or obligation under the line of credit or equivalent agreement for future advances (if applicable) or any document or agreement related thereto; (3) any warranty or representation made by the Borrower shall prove to be false or misleading in any respect; (4) the Borrower or any Guarantor of this promissory note shall liquidate, merge, dissolve, terminate its existence, suspend business operations, die (if an individual), have a receiver appointed for all or any part of its property, make an assignment for the benefit of its creditors, or file or have filed against it any petition under any existing or future bankruptcy or insolvency law; (5) any change that occurs in the condition or affairs (financial or otherwise) of the Borrower or any Guarantor of this promissory note which, in the opinion of the Lender, impairs the Lender's security or increases its risk with respect to this promissory note; or (6) an event of default shall occur under any agreements intended to secure the repayment of this promissory note. Unless prohibited by law, the Lender may, at its option, declare the entire unpaid balance of principal and interest immediately due and payable without notice or demand at any time after default, as such term is defined in this paragraph.

WAIVER — Demand, presentment, protest and notice of nonpayment and dishonor of this promissory note are hereby waived.

Corporate Borrower

_____

By X _____

Its _____

Individual Borrower(s)

X _____ Borrower DAVID R. HAGLE

X _____ Borrower Edwin Gallagher

BANKERS SYSTEMS INC ST CLOUD MN FORM VRUN 2/27/85

9 0 0 4 0 8 1 2 5 7 7

PROMISSORY NOTE:

[X] Fixed Rate; [ ] Variable; [ ] Single Advance; [XX] Multiple Advance; [ ] Business or Agricultural; [X] [redacted]; [ ] Demand; [X] April 3, 1989 Fixed Maturity Date

CAUTION: SEPARATE TRUTH IN LENDING DISCLOSURES ARE NECESSARY UNLESS TRANSACTION EXEMPT UNDER 12 C.F.R. 226.3.

The undersigned Borrower (if more than one, jointly and severally, and hereafter referred to as Borrower) promises to pay to the order of

Lender THE NATIONAL BANK OF WATERLOO
WATERLOO, IOWA 50704

at

Date 2-1- 19 89
LOAN NO. 34696
REN'L OF 34696
INDEX RATE 12 % (as of the date hereof)

Borrower(s) Name(s) and Address(es)
David R. Nagle
4935 N. Union Rd.
Cedar Falls, Iowa 50613

PRINCIPAL AND INTEREST

[ ] the principal sum of $

[XX] the amount of the principal advance made by the Lender to the Borrower on the date hereof $ 20,000.00
plus advances made to Borrower from time to time hereafter pursuant to the line of credit (or equivalent) agreement dated 2-1- 19 89
less any payments made by Borrower on this note hereafter allocated to principal subject to a maximum principal indebtedness at any one time of $ 20,000.00

The unpaid principal balances remaining from time to time shall bear INTEREST, computed daily, at an annual rate of 12 %

[ ] The above interest rate shall be fixed until this note is paid in full subject to any post-maturity interest rate specified below.

[ ] Subject to any maximum and minimum rates specified below, the above interest rate on this note shall from time to time hereafter be adjusted to be ____ %

[ ] the following selected INDEX RATE:

[ ] The discount rate on 90 day commercial paper in effect at the Federal Reserve Bank of

[ ]

[ ] Changes hereafter in the INDEX RATE shall take effect on this note on the

[ ] same day

[ ] day following the day

[ ]

such changes in the INDEX RATE take effect and shall thereafter remain in effect until and including the day preceding the next adjustment date.

[ ] The interest rate on this note shall not, for any one day exceed the following annual rate ____ %

[ ] The interest rate on this note shall not, for any one day be less than the following annual rate ____ %

[X] The interest rate on this note after maturity (including maturity by acceleration) shall be

[ ] The interest rate (without adjustment) after maturity in effect at maturity

[ ] An annual rate (without adjustment) after maturity, equal to ____ %

[X] At an annual rate (with adjustments determined on the same basis as the rate before maturity)

PAYMENTS AND SECURITY

Accrued interest shall be paid (select one or more):

[ ] monthly beginning on ____ 19 ____ and the same day of each month thereafter, and

[ ] quarterly beginning ____ 19 ____ and on the same day of each third month thereafter; and

[ ] semi-annually beginning ____ 19 ____ and on the same day of each sixth month thereafter; and

[ ]

[XX] at maturity, including maturity upon acceleration after default and, if applicable, on demand.

Principal shall be payable:

[ ] on demand.

[X] on demand, but if no demand is made then on April 3 19 89

[ ] by installments beginning ____ 19 ____

and on the same day of each ____

thereafter, each in an amount not less than $ ____

(exclusive of interest) until ____ 19 ____ at which time the entire unpaid balance of principal and interest shall be due and payable

[ ]

This promissory note is

[X] not secured (except for Lender's right of set off).

[ ] secured (in addition to Lender's right of set-off) by a

[ ] Mortgage or equivalent lien on Real Estate dated ____ 19 ____

[ ] Security interest, in one or more types of personal property effective ____ 19 ____

Notwithstanding anything to the contrary contained herein, all payments made by Borrower to Lender hereafter shall be applied first toward interest and the balance toward principal.

Borrower may prepay this note at any time prior to maturity without penalty, but any partial prepayments shall not relieve or diminish any scheduled subsequent payments of principal or interest until all obligations are paid in full.

Except where prohibited by law, the Borrower promises to pay all costs of collection, including but not limited to reasonable attorney's fees, at any time paid or incurred by the Lender on account of such collection, whether or not suit is filed with respect thereto.

Borrower hereby warrants and represents that the proceeds of this note will be used solely for the following purposes: Personal Expenses

NO SEPARATE CLAUSE OR SENTENCE ON THIS NOTE PRECEDED BY A ___ IS AN OPTION TO BE SELECTED AND MARKED BY THE PARTIES HERETO AT THE TIME OF SIGNING. ANY OPTION NOT MARKED IS NOT APPLICABLE.

ADDITIONAL TERMS

SET OFF — Lender may at any time before or after default exercise its right to set off all or any portion of the indebtedness evidenced hereby against any liability or indebtedness of the Lender to the Borrower, whether owed by the Borrower alone or in conjunction with any other person or entity, provided that the Borrower has a beneficial interest therein without prior notice to the Borrower.

DEFAULT AND ACCELERATION — The Borrower shall be in default upon the occurrence of any one or more of any of the following events: (1) the Borrower shall fail to pay when due any amount secured hereby or any other indebtedness of the Borrower to the Lender or any third parties; (2) the Borrower shall be in default in the performance of any covenant or obligation under the line of credit (individual agreement for future advances) if applicable or any document or agreement related thereto; (3) any warranty or representation made by the Borrower or a Guarantor of this promissory note shall be false in any respect; (4) the Borrower or any Guarantor of this promissory note shall liquidate, merge, dissolve, terminate its existence, suspend business operations, be adjudicated bankrupt or insolvent, have a receiver appointed for all or any part of its property, make an assignment for the benefit of its creditors, or file or have filed against it any petition under any existing or future bankruptcy or insolvency law; (5) any change shall occur in the condition or affairs (financial or otherwise) of the Borrower or any Guarantor of this promissory note which in the opinion of the Lender impairs the Lender's security or increases its risk with respect to this promissory note; or (6) an event of default shall occur under any agreement (including a security agreement) which shall be in force from time to time, unless prohibited by law, the Lender may, at its option, declare the entire unpaid balance of principal and interest immediately due and payable without notice or demand at any time after default (as such term is defined in this paragraph).

WAIVER — Demand, presentment, protest and notice of nonpayment and dishonor of this promissory note are hereby waived.

SIGNATURES — I agree to the terms set out in this document and acknowledge receipt of a copy of this document on today's date.

Corporate Borrower

By, X ____

Its ____

Individual Borrower(s)

X ____ Borrower DAVID R. NAGLE

X ____ Daniel Holmes

Edwin Gallagher, Jr.

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renewal

214636

0 0 0 4 0 8 1 2 5 7 8

PROMISSORY NOTE: (☒ Variable Rate; ☐ Multiple Advance; ☒ ____; ☒ July 3, 1989 Fixed Maturity Date)

CAUTION: SEPARATE TRUTH IN [redacted]SCLOSURES ARE NECESSARY UNLESS TRANSACT[redacted] UNDER 12 C.F.R. 226.1.

The undersigned Borrower (if more than one, jointly and severally, and hereafter referred to as Borrower) promises to pay to the order of

Lender NATIONAL BANK OF WATERLOO
at WATERLOO, IOWA 50704

Date 4-3- 19 89
LOAN NO. 34696
REN'L OF 34696
INDEX RATE 12 % (as of the date hereof)

Borrower(s) Name(s) and Address(es)
David R. Nagle
524 Washington
Waterloo, Iowa 50702

PRINCIPAL AND INTEREST

☒ the principal sum of $ 20,000.00

☐ the amount of the principal advance made by the Lender to the Borrower on the date hereof $ ____ plus advances made to Borrower from time to time hereafter pursuant to the line of credit (or equivalent) agreement dated ____ 19__ less any payments made by Borrower on this note hereafter allocated to principal, subject to a maximum principal indebtedness at any one time of $ ____

The unpaid principal balances remaining from time to time shall bear INTEREST, computed daily, at an annual rate of 12 %

☐ The above interest rate shall be fixed until this note is paid in full subject to any post-maturity interest rate specified below.

☒ Subject to any maximum and minimum rates specified below, the above interest rate on this note shall from time to time hereafter be adjusted to be 0 %

above the following selected INDEX RATE:

☐ The discount rate on 90 day commercial paper in effect at the Federal Reserve Bank of ____

☒ The National Bank of Waterloo Index Rate

Changes hereafter in the INDEX RATE shall take effect on this note on the:

☐ same day

☒ day following the day

☐ ____

such changes in the INDEX RATE take effect, and shall thereafter remain in effect until and including the day preceding the next adjustment date.

The interest rate on this note shall not, for any one day, exceed the following annual rate ____ %

The interest rate on this note shall not, for any one day, be less than the following annual rate ____ %

The interest rate on this note after maturity, including maturity by acceleration, shall be:

☐ The interest rate without adjustment after maturity in effect at maturity.

☐ An annual rate without adjustment after maturity equal to ____ %

☒ At an annual rate with adjustments determined on the same basis as the rate before maturity

PAYMENTS AND SECURITY

Accrued interest shall be paid (select one or more):

☐ monthly beginning on ____ 19__ and the same day of each month thereafter; and

☐ quarterly beginning ____ 19__ and on the same day of each third month thereafter; and

☐ semi-annually beginning ____ 19__ and on the same day of each sixth month thereafter; and

☐ ____

☒ at maturity, including maturity upon acceleration after default and, if applicable, on demand.

Principal shall be payable:

☐ on demand;

☒ on demand, but if no demand is made then on July 3 19 89

☐ by installments beginning ____ 19__

and on the same day of each ____

thereafter, each in an amount not less than $ ____

(exclusive of interest) until ____ 19__ at which time the entire unpaid balance of principal and interest shall be due and payable.

☐ ____

This promissory note is:

☒ not secured (except for Lender's right of set-off);

☐ secured (in addition to Lender's right of set-off) by a

☐ Mortgage or equivalent lien on Real Estate dated ____ 19__

☐ Security interest, in one or more types of personal property effective ____ 19__

Notwithstanding anything to the contrary contained herein, all payments made by Borrower to Lender hereafter shall be applied first toward interest and the balance toward principal.

Borrower may prepay this note at any time prior to maturity without penalty, but any partial prepayments shall not relieve or diminish any scheduled subsequent payments of principal or interest until all obligations are paid in full.

Except where prohibited by law, the Borrower promises to pay all costs of collection, including but not limited to reasonable attorney's fees, at any time paid or incurred by the Lender on account of such collection, whether or not suit is filed with respect thereto.

Borrower hereby warrants and represents that the proceeds of this note will be used solely for the following purposes personal campaign expenses

* SEPARATE CLAUSE OR SENTENCE ON THIS NOTE PRECEDED BY A __ IS AN OPTION TO BE SELECTED AND MARKED BY THE PARTIES HERETO AT THE TIME OF SIGNING. ANY OPTION NOT MARKED IS NOT APPLICABLE.

ADDITIONAL TERMS

SET OFF — Lender may at any time before or after default exercise its right to set-off all or any portion of the indebtedness evidenced hereby against any liability or indebtedness of the Lender to the Borrower, whether owned by the Borrower alone or in conjunction with any other person or entity, provided that the Borrower has a beneficial interest therein) without prior notice to the Borrower.

DEFAULT AND ACCELERATION — The Borrower shall be in default upon the occurrence of any one or more of any of the following events: (1) the Borrower shall fail to pay when due any amount required hereunder or any other indebtedness of the Borrower to the Lender or any third parties, (2) the Borrower shall be in default in the performance of any covenant or obligation under the line of credit or equivalent agreement for future advances (if applicable) or any document or agreement related thereto; (3) any warranty or representation made by the Borrower shall prove to be false or misleading in any respect; (4) the Borrower or any Guarantor of this promissory note shall liquidate, merge, dissolve, terminate its existence, suspend business operations, die (if an individual), have a receiver appointed for all or any part of its property, make an assignment for the benefit of its creditors, or file or have filed against it any petition under any existing or future bankruptcy or insolvency law; (5) any change that occurs in the condition or affairs (financial or otherwise) of the Borrower or any Guarantor of this promissory note which, in the opinion of the Lender, impairs the Lender's security or increases its risk with respect to this promissory note; or (6) an event of default shall occur under any agreements intended to secure the repayment of this promissory note. Unless prohibited by law, the Lender may, at its option, declare the entire unpaid balance of principal and interest immediately due and payable without notice or demand at any time after default, as such term is defined in this paragraph.

WAIVER — Demand, presentment, protest and notice of nonpayment and dishonor of this promissory note are hereby waived.

SIGNATURES — I agree to the terms set out in this document, and acknowledge receipt of a copy of this document on today's date.

Corporate Borrower

By X ____

Its ____

Individual Borrower(s)

X ____ Borrower DAVID R. NAGLE

X ____ Borrower

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renewal

NAGLE CAMPAIGN COMMITTEE
P. O. BOX 762
WATERLOO, IA 50704

212

9/25 1989

72-2194/739

PAY TO THE ORDER OF National Bank of Waterloo $5000 00

Five Thousand and 00/100 DOLLARS

the peoples bank and trust company
waterloo, iowa 50704

MEMO Payment on loan

Tom Eddie

⑆073921946⑆ 69 7123 9⑈ 0212 ⑈0000500000⑈

0004031125830

DO NOT WRITE, STAMP OR SIGN BELOW THIS LINE

▼073900043-00
NATIONAL BANK OF WATERLOO
WATERLOO, IOWA 50703
▼073921946-03

004044 06/89 1 AC#
DDA OTHER CASHED $5000.00
NATIONAL BANK OFFICE

XL

REMITTER

NATIONAL BANK OF WATERLOO

WATERLOO, IOWA 50704

72-43

NOTICE TO CUSTOMERS
The purchase of an indemnity Bond will be required before this check will be replaced or refunded in the event it is lost, misplaced or stolen.

337254

72-43/739

DEC 19 1988

PAY TO THE ORDER OF David R. Nagle or Nagel '88 Committee

[redacted] $ 20,000.00

NATIONAL BANK OF WATERLOO 20,000 dollars 00 cts [redacted]

DOLLARS

CASHIER'S CHECK

VOID SIX MONTHS AFTER ISSUE DATE

⑈337254⑈ ⑆073900438⑆ 002 003 6⑈ ⑈0002000000⑈

9 0 0 4 0 3 1 2 5 3 1

FOR DEPOSIT ONLY
NAGLE '88

1008 $3,750

POSTMARK
WATERLOO, IOWA
DEC 21 88
50704-0141

the response with original signature will be forwarded when received.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2985
David R. Nagle	)	

RESPONSE OF H. DANIEL HOLM, JR TO
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

1. On or about December 19, 1988, David R. Nagle, a candidate for the U.S. House of Representatives in the 1988 election cycle, obtained a loan from the National Bank of Waterloo in the amount of $20,000. The following questions are propounded in connection with that loan.

a. State whether you were an endorser or guarantor of the loan. Identify the amount/portion of the loan guaranteed by you.

ANSWER: See affidavit of H. Daniel Holm, Jr.

b. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee or endorse the loan.

ANSWER: I did not submit any application financial statements or other documents to the Bank with respect to this loan. I have been a customer of

10-19-89: Hand delivered by Purolator

the Bank for several years and am well known to them.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms of your guarantee or endorsement of the loan.

ANSWER: Copies of the promissory notes are attached to the Response of Congressman Nagle to the Interrogatories propounded to him.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

ANSWER: None.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

ANSWER: None.

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(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the loan.

ANSWER: None. The previous note was extinguished by the renegotiation.

2. On or about April 3, 1989, the $20,000 loan obtained from the National Bank of Waterloo, discussed in question 1, was re-negotiated. The following questions are propounded in connection with that agreement.

a. State whether you were a party to the re-negotiation of the loan. If yes, explain the capacity in which you participated in such re-negotiation.

ANSWER: The Committee, upon notification by the FEC, contacted the Bank and informed them that we needed to re-negotiate the loan to remove my name and that of Edward Gallagher.

b. State whether you have incurred any obligation under the terms of the re-negotiated loan. If yes, identify such obligation.

ANSWER: No.

9 0 0 4 0 3 1 2 5 3 4

c. Explain the status of your guarantee of the original loan, discussed in question 1, in relation to the re-negotiated loan.

ANSWER: None.

d. State whether you are an endorser or guarantor of the re-negotiated loan and the amount/portion of the loan guaranteed.

ANSWER: No.

e. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee the loan.

ANSWER: None.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms your guarantee of the loan.

ANSWER: None.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

ANSWER: None.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

ANSWER: None.

(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the re-negotiated loan.

ANSWER: None.

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and belief. Executed on October 19, 1989.

H. Daniel Holm, Jr.

9004081125836

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2985
David R. Nagle	)	

RESPONSE OF EDWARD J. GALLAGHER, JR. TO
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

1. On or about December 19, 1988, David R. Nagle, a candidate for the U.S. House of Representatives in the 1988 election cycle, obtained a loan from the National Bank of Waterloo in the amount of $20,000. The following questions are propounded in connection with that loan.

a. State whether you were an endorser or guarantor of the loan. Identify the amount/portion of the loan guaranteed by you.

ANSWER: See affidavit of Edward J. Gallagher, Jr.

b. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee or endorse the loan.

ANSWER: I did not submit any application, financial statement or any other documents to the Bank with

respect to this loan. I have been a customer of the Bank for 38 years and am well known to them.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms of your guarantee or endorsement of the loan.

ANSWER: Copies of the promissory notes are attached to the Response of David R. Nagle to the Interrogatories propounded to him. Attached is a copy of the Obligatory or Discretionary Line of Credit Agreement which was in my file.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

ANSWER: None.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

ANSWER: None.

(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the loan.

ANSWER: None. I knew that the loan was renegotiated and I did not sign it.

2. On or about April 3, 1989, the $20,000 loan obtained from the National Bank of Waterloo, discussed in question 1, was re-negotiated. The following questions are propounded in connection with that agreement.

a. State whether you were a party to the re-negotiation of the loan. If yes, explain the capacity in which you participated in such re-negotiation.

ANSWER: No.

b. State whether you have incurred any obligation under the terms of the re-negotiated loan. If yes, identify such obligation.

ANSWER: No.

c. Explain the status of your guarantee of the original loan, discussed in question 1, in relation to the re-negotiated loan.

ANSWER: None.

d. State whether you are an endorser or guarantor of the re-negotiated loan and the amount/portion of the loan guaranteed.

ANSWER: No.

e. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee the loan.

ANSWER: None.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms your guarantee of the loan.

ANSWER: None.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

ANSWER: None.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

ANSWER: None.

(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the re-negotiated loan.

ANSWER: None.

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and belief. Executed on October 9, 1989.

Edward J. Gallagher, Jr.

OBLIGATORY [redacted] DISCRETIONARY LINE OF CRE[redacted]REEMENT

WARNING: USE ONLY for a line of credit [redacted] amount to an individual, partnership or corporation [redacted]ULTURAL or BUSINESS purposes.

TO David R. Nagle
4005 N. Union Rd.
Cedar Falls, Iowa 50613
(name and address)

This letter is intended to set forth and confirm the terms and conditions under which **NATIONAL BANK OF WATERLOO, WATERLOO, IOWA 50704** ("the Lender") has agreed to extend a line of credit to David R. Nagle ("the Borrower") in the amount of $ 20,000.00 ("Loan Amount"). Said terms and conditions are as follows

1 **AMOUNT:** The Lender agrees to make loans to the Borrower from time to time until and including Feb. 1, 19 89, at such time and in such amount as to each loan as the Borrower shall request to be used in the Borrower's ☐ business ☐ agricultural operations, up to but not exceeding at any particular time outstanding the Loan Amount. Within such limit, the Borrower may borrow, prepay and reborrow hereunder; provided, however, that notwithstanding anything to the contrary contained herein, **THE LENDER SHALL NOT BE OBLIGATED TO MAKE ANY ADVANCE HEREUNDER, EXCEPT IN ITS SOLE AND ABSOLUTE DISCRETION, IF THE THEN AGGREGATE OUTSTANDING ADVANCES HEREUNDER EQUAL OR EXCEED $_____ ("OBLIGATORY AMOUNT")** (If this blank is not completed it shall be deemed to be zero).

2 **PROMISSORY NOTE.** The obligation of the Borrower to repay any and all advances made hereunder shall be evidenced by the promissory note executed and delivered to the Lender by the Borrower on the date hereof in an original principal amount equal to the Loan Amount and payable to the order of the Lender ("Note"), which Note sets forth the terms relating to maturity, repayment schedule, interest rate and other matters governing the repayment of the advances made hereunder. Notwithstanding any provision of the Note, however, interest shall be payable at the rate provided for therein only on such portion of the loan proceeds as actually have been disbursed hereunder and remain unpaid. The Lender's records shall be conclusive evidence as to the amount of advances made hereunder.

3 **RELATED DOCUMENTS.** The following related documents have been executed and delivered to the Lender (said documents hereinafter collectively referred to as the "Related Documents") and this Line of Credit Agreement and the Note are entitled to all of the benefits and security provided for therein:

☐ Security Agreement dated _____ ☐ Guaranty dated _____
☐ Mortgage dated _____ ☐ Other: _____

4 **REMEDIES:** Upon the occurrence at any time of an "Event of Default" (as that term is defined in the Note), (a) the Lender shall be entitled to exercise any and all of the rights and remedies provided for in the Related Documents, and (b) the Lender may, at its option, and without notice to the Borrower, terminate this Line of Credit Agreement and its commitment hereunder.

5 **COSTS AND FEES:** The Borrower shall reimburse the Lender, upon demand, for all costs and expenses (including, without limitation, attorneys' fees) paid or incurred by the Lender in connection with the enforcement of this Line of Credit Agreement, the Note or any of the Related Documents or the collection of any indebtedness of the Borrower to the Lender hereunder or under the Note, whether or not suit is filed with respect thereto.

6 **COVENANTS.** So long as any indebtedness (whether under the Note or otherwise) of the Borrower to the Lender remains outstanding and unpaid and so long as the Lender is obligated to make advances hereunder, the Borrower covenants and agrees:

(a) to maintain accurate and complete books and records regarding its operations and to permit the Lender, its officers or other authorized representatives, to examine all such books and records, to make copies thereof and extracts therefrom;
(b) to furnish to the Lender such documents and instruments as the Lender may request to evidence the purpose for which any advances made hereunder were or are to be used;
(c) that Lender shall have the right to disburse the proceeds of any advance made hereunder directly to the vendor of any goods being purchased with an advance hereunder or jointly to such vendor and the Borrower; and
(d) Other _____

7 **NOTICES:** All notices, requests and demands hereunder or under the Note or Related Documents shall be given to or made upon the Borrower at its respective address specified above or at such other address as may be designated by the Borrower to the Lender in writing. All notices, requests, consents and demands hereunder shall be effective when duly deposited in the mails, certified mail, postage prepaid, or when delivered in person to the Borrower at the address specified above.

8 **TERM:** Unless sooner terminated by the Lender pursuant to the provisions of Section 4 hereof, the commitment of the Lender hereunder shall expire and be of no force or effect as of 3:00 o'clock p.m. on the date specified in Section 1 hereof, unless the term hereof is extended by written agreement of the Lender and the Borrower. Notwithstanding anything to the contrary contained herein, neither the Lender nor the Borrower shall be obligated to so extend the original or any extended term hereof pursuant to this Section under any circumstances or conditions whatsoever, and the Borrower hereby acknowledges that the Lender has not agreed, warranted or represented in any manner whatsoever that it would so extend the original or any extended term hereof pursuant to this subsection or otherwise. Notwithstanding the expiration of the Lender's commitment pursuant to this Section 8, the Borrower shall remain obligated to perform its covenants and agreements set forth herein and in the Related Documents so long as any indebtedness (whether under the Note or otherwise) of the Borrower to the Lender remains outstanding and unpaid.

9 **MISCELLANEOUS:** No failure on the part of the Lender to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law, and, without limiting the generality of the foregoing, all representations, warranties, covenants, agreements and acknowledgments set forth herein shall be cumulative with and in addition to those set forth and contained in any document or instrument related hereto. This Line of Credit Agreement, the Note and Related Documents may not be amended or modified, nor may any of their terms (including, without limitation, terms affecting the maturity of or rate of interest on the Note) be modified or waived, except by written instruments signed by the Lender and the Borrower. This Line of Credit Agreement, the Note and the Related Documents shall be binding upon and inure to the benefit of the Borrower and the Lender and their respective successors and assigns, provided, however, that the Borrower may not transfer or assign its right to borrower hereunder without the prior written consent of the Lender. This Line of Credit Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and the Lender and the Borrower may execute this Line of Credit Agreement by signing any such counterpart. This Line of Credit Agreement and all documents and instruments related hereto shall be construed in accordance with and governed by the law of the state where signed. The descriptive headings for the several sections of this Line of Credit Agreement are inserted for convenience only and shall not define or limit any of the terms or provisions hereof.

If the foregoing terms, conditions, warranties, representations, covenants, acknowledgments and agreements are acceptable to you, please sign the enclosed copy of this letter and deliver it to the Lender, whereupon it will become the binding agreement of the Lender and the Borrower.

Very truly yours,
LENDER

By [signature] Its [signature]

The Borrower(s) hereby (i) accepts and agrees to be bound by the terms, conditions, covenants and agreements set forth in the within letter and (ii) acknowledges receipt of a completed copy of this Line of Credit Agreement.

Dated: Dec. 19, 19 88

BORROWER(S): [signature]

Edwin Gallagher DAVID R. NAGLE Dan Hoff

© BANKERS SYSTEMS, INC., ST. CLOUD, MINN. FORM OOLCA (Revised 1/2/81) IOWA

OGC 4400

MANATT, PHELPS, ROTHENBERG & PHILLIPS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS
ATTORNEYS AT LAW

1200 NEW HAMPSHIRE AVENUE, N.W.
SUITE 200
WASHINGTON, D.C. 20036

TELEPHONE (202) 463-4300
FAX (202) 463-4394
(202) 463-4395

LOS ANGELES
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064
(213) 312-4000

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
89 OCT 27 AM 10:26

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 OCT 27 PM 1:22

October 24, 1989

Sandra H. Robinson
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2985

Dear Ms. Robinson:

Enclosed are the signed originals of the affidavit of H. Daniel Holm, Jr. and his response to the FEC Interrogatories and Request for Production of Documents. Please substitute these for the copies submitted with our response on October 20, 1989.

If you have any questions, please contact me at 463-4320.

Sincerely,

Lyn Utrecht

Lyn Utrecht
Manatt, Phelps, Rothenberg
& Phillips

00040812593

AFFIDAVIT OF H. DANIEL HOLM, JR.

H. Daniel Holm, Jr., being duly sworn states as follows:

1. I am treasurer of the Nagle '88 Committee which was the 1988 principal campaign committee of David R. Nagle, U.S. House of Representatives, 3rd Congressional District of Iowa.

2. After the 1988 general election, the Nagle '88 Committee had outstanding debts of approximately $30,000. In order to consolidate these debts and pay the campaign's vendors as quickly as possible, Congressman Nagle or someone on his staff requested that I contact The National Bank of Waterloo concerning a loan to pay the campaign's outstanding debts.

3. At no time did Congressman Nagle ask me to sign the loan, to guarantee the loan or to assume any personal obligation to repay the loan.

4. Sometime in December of 1988, I contacted the bank to arrange for a loan. It was clearly understood that the Congressman would sign the note and that the funds were to be used to pay campaign debts. Since I viewed the loan as to the campaign committee, I viewed my signature as merely a formality. I have known Congressman Nagle for years and I knew that he had sufficient assets personally to pay the obligation and that he would never call on me to do so. I did not believe or intend that I would have any obligation to personally repay the note; rather, I

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believed that Congressman Nagle was personally responsible to repay it in the event that the committee did not raise sufficient funds to repay it.

5. I was not aware that Federal election law treats a co-signer, endorser or guarantor as a contributor, and, therefore, I had no intention of making an excessive contribution to Congressman Nagle's campaign.

6. As soon as it was brought to our attention that there was a problem with the loan, we took immediate steps to remove my name and that of Edward Gallagher from the loan.

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and belief. Executed on October 19, 1989.

H. Daniel Holm, Jr.

H. Daniel Holm, Jr.

00040312575

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2985
David R. Nagle	)	

RESPONSE OF H. DANIEL HOLM, JR TO
INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

1. On or about December 19, 1988, David R. Nagle, a candidate for the U.S. House of Representatives in the 1988 election cycle, obtained a loan from the National Bank of Waterloo in the amount of $20,000. The following questions are propounded in connection with that loan.

a. State whether you were an endorser or guarantor of the loan. Identify the amount/portion of the loan guaranteed by you.

ANSWER: See affidavit of H. Daniel Holm, Jr.

b. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee or endorse the loan.

ANSWER: I did not submit any application financial statements or other documents to the Bank with respect to this loan. I have been a customer of

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the Bank for several years and am well known to them.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms of your guarantee or endorsement of the loan.

ANSWER: Copies of the promissory notes are attached to the Response of Congressman Nagle to the Interrogatories propounded to him.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

ANSWER: None.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

ANSWER: None.

(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the loan.

ANSWER: None. The previous note was extinguished by the renegotiation.

2. On or about April 3, 1989, the $20,000 loan obtained from the National Bank of Waterloo, discussed in question 1, was re-negotiated. The following questions are propounded in connection with that agreement.

a. State whether you were a party to the re-negotiation of the loan. If yes, explain the capacity in which you participated in such re-negotiation.

ANSWER: The Committee, upon notification by the FEC, contacted the Bank and informed them that we needed to re-negotiate the loan to remove my name and that of Edward Gallagher.

b. State whether you have incurred any obligation under the terms of the re-negotiated loan. If yes, identify such obligation.

ANSWER: No.

c. Explain the status of your guarantee of the original loan, discussed in question 1, in relation to the re-negotiated loan.

ANSWER: None.

d. State whether you are an endorser or guarantor of the re-negotiated loan and the amount/portion of the loan guaranteed.

ANSWER: No.

e. Provide a copy of the following documents:

(i) application, financial statement(s), and any other documents submitted by you to the bank in order to guarantee the loan.

ANSWER: None.

(ii) the promissory note and any other written agreements between you and the National Bank of Waterloo regarding the terms your guarantee of the loan.

ANSWER: None.

(iii) any documents, in your possession, that were submitted to the bank by the borrower and any other endorsers or guarantors with regard to the loan.

ANSWER: None.

(iv) any written agreements between the borrower or any other endorsers or guarantors of the loan and the National Bank of Waterloo, in your possession, regarding such endorsement(s) or guarantee(s).

ANSWER: None.

(v) any documents that demonstrate a release and/or satisfaction of your obligations with regard to the re-negotiated loan.

ANSWER: None.

I declare under penalty of perjury that the foregoing statement is true and correct to the best of my knowledge and belief. Executed on October 19, 1989.

H. Daniel Holm, Jr. y

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

90 JAN 23 PM 5:10
RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

In the Matter of	)	
	)	
David R. Nagle; Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer; H. Daniel Holm, Jr.; and Edward J. Gallagher, Jr.	)	MUR 2985

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was generated by a referral from the Reports Analysis Division ("RAD"). On September 19, 1989, the Commission opened a MUR and found reason to believe David R. Nagle[1], Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, violated 2 U.S.C. § 441a(f); and found reason to believe H. Daniel Holm, Jr. and Edward J. Gallagher, Jr., violated 2 U.S.C. § 441a(a)(1)(A). The Commission's findings were based on a loan transaction between the respondents. According to the referral materials, it appeared that David Nagle obtained a $20,000 bank loan from the National Bank of Waterloo, on which Mr. Holm and Mr. Gallagher were endorsers or co-makers.[2] Mr. Nagle gave the proceeds from the loan to his federal campaign committee, Nagle Campaign Committee ("the Committee").

The respondents' answers to the discovery requests and the Commission's findings were submitted jointly by the same counsel

---

1. David Nagle was a candidate for the U.S. House of Representatives from Iowa's 3rd congressional district in the 1988 election cycle. He won the 1988 general election with 63% of the vote.

2. It is noted that on the promissory notes and a separate agreement related to the loan transaction, each person signed as a "borrower."

on October 23, 1989. A supplemental response was received on October 29, 1989. Attachment I. The respondents requested that the Commission take no further action or, in the alternative, that the Commission enter into pre-probable cause conciliation with them.

II. ANALYSIS

A. The Law

The Federal Election Campaign Act of 1971, as amended ("the Act"), limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A).

The Act further prohibits a candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the provisions of Section 441a. In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make an expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under Section 441a. 2 U.S.C. § 441a(f).

The Act defines "contribution" to include loans made to the political committee, except that a loan made in accordance with applicable law and in the ordinary course of business by a State or federally chartered or insured bank shall not be considered a contribution from such bank. 2 U.S.C. § 431(8)(A) & (B)(via). Commission regulations include a guarantee, endorsement, and any

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other form of security in the term "loan." Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan is a contribution when it is made and remains such to the extent that it remains unpaid. To the extent that it is repaid, a loan is no longer a contribution. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. Any repayment proportionately reduces the amount guaranteed or endorsed. 11 C.F.R. § 100.7(a)(1)(i).

The Act provides that where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee(s). 2 U.S.C. § 432(e)(2).

B. Analysis

The first argument presented on behalf of Mr. Nagle is that he should not be named as a respondent in this matter. Relying on 2 U.S.C. § 432(e)(2), it was asserted that the "entire statutory scheme is premised on the responsibility, not of the candidate personally, but of the treasurer of a committee to oversee receipts and disbursements and to exercise best efforts to comply with the law." Attachment I(2). Further, in each of their affidavits, Mr. Holm and Mr. Gallagher averred that Mr. Nagle did not ask either to sign or guarantee the bank loan. Attachment I(7) & (36). Such statements appear to be suggesting that Mr. Nagle was not fully aware of the circumstances

surrounding the loan, or perhaps that it was not Mr. Nagle's intent to violate the Federal Election Campaign Act of 1971, as amended ("the Act").

Mr. Nagle signed each of the promissory notes evidencing the terms of the loan from the bank, and his signature appears along side the signatures of Mr. Holm and Mr. Gallagher on two of these notes. In addition, a separate agreement executed in connection with the loan further substantiates Mr. Nagle's knowledge about the circumstances of the loan. Mr. Gallagher's response to the interrogatories included a copy of an "Obligatory and/or Discretionary Line of Credit Agreement" that was issued by the bank and signed by Mr. Nagle, Mr. Holm and Mr. Gallagher. Attachment I(34).

The Act expressly prohibits a candidate, as well as a political committee, from accepting an excessive contribution. 2 U.S.C. § 441a(f). A review of the legislative history for the 1971 and 1979 amendments to the Act showed that one concern was to allow bank loans to federal campaigns, but to require disclosure to ensure against illegal contributions. Another interest expressed was to reduce the reporting obligations of candidates by treating him or her as an agent of the authorized committees, thus, placing the responsibility for reporting financial activity on the committees. As stated by Representative Frenzel,

> "Candidate Reporting. Candidates are relieved of any reporting obligations on their own forms. Instead, the candidate will be able to receive contributions or make expenditure (sic) as an agent of his/her authorized committees."

125 Cong. Rec. H23815 (daily ed. September 10, 1979) (statement of Rep. Frenzel), reprinted in FEC legislative History of Federal Election Campaign Act Amendments of 1979 at 446 (1983). See also, 117 Cong. Rec. S28814 (daily ed. August 2, 1971) (statement of Sen. Prouty) and 118 Cong. Rec. H321 (daily ed. January 19, 1972) (statement of Rep. Springer) reprinted in FEC Legislative History of the Federal Election Campaign Act of 1971 at 460, 889. (1981). It appears that there was never any intention on the part of Congress to relieve candidates from personal liability with regard to the provisions of Section 441a. In the present matter, Mr. Nagle was directly involved with the loan transaction at issue. Therefore, it is the position of this Office that he, along with the other individuals, was properly named as a respondent in this matter.

With regard to the loan transaction, the respondents have not produced any information contrary to that available at the time of the reason to believe findings. As evidenced by the copies of the promissory notes included with the response, the loan was initially obtained on December 19, 1988. It was re-negotiated on February 1, 1989 and April 3, 1989. Mr. Nagle, Mr. Holm, and Mr. Gallagher signed the first two notes; only Mr. Nagle signed the last note. Attachment I(19)-(21).

Mr. Holm and Mr. Gallagher stated that they did not provide any information to the bank for its consideration in granting the loan to Mr. Nagle. Each stated that they had a long-standing relationship with the bank. Mr. Nagle provided a copy of the financial statement he submitted to the bank for consideration.

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Attachment I(17)-(18). It is noted that the statement appears to include financial information about Mrs. Nagle, although only Mr. Nagle's signature appears on the statement. Since the total assets listed on the statement equals there does not appear to be an excessive contribution made by Mrs. Nagle in connection with the loan transaction.

It was stated that a $5,000 payment was made to the bank on the loan on September 26, 1989. The source of these funds was a fundraiser held in August 1989. A copy of the canceled check was included. Attachment I(22).

The respondents have stated that the initial loan transaction was entered into by mistake and without any intent to violate the Act. They noted that the loan has been completely disclosed from the beginning. It is acknowledged that it was due to the Committee's first disclosure of the loan listing Mr. Holm and Mr. Gallagher as guarantors that generated the referral of this matter. The respondents have also taken steps to remedy the violation by re-negotiating the loan with only Mr. Nagle as a signatory. Further, it appears that neither Mr. Holm or Mr. Gallagher are responsible for repaying any portion of the loan. Therefore, this Office recommends that the Commission reject the respondents request to take no further action and, instead, enter into pre-probable cause conciliation with the respondents.

III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Reject the request of David R. Nagle; Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer; H. Daniel Holm, Jr.; and Edward J. Gallagher, Jr., to take no further action.

2. Enter into conciliation with David R. Nagle prior to a finding of probable cause to believe.

3. Enter into conciliation with Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, prior to a finding of probable cause to believe.

4. Enter into conciliation with H. Daniel Holm, Jr., prior to a finding of probable cause to believe.

5. Enter into conciliation with Edward J. Gallagher, Jr., prior to a finding of probable cause to believe.

6. Approve the attached proposed conciliation agreements and letter.

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1/23/90
Date

Lawrence M. Noble
General Counsel

Attachments
1. Responses and request for conciliation
2. Proposed Conciliation Agreements and letter

Staff assigned: Sandra H. Robinson

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS DH
COMMISSION SECRETARY

DATE: JANUARY 23, 1990

SUBJECT: MUR 2985 - GENERAL COUNSEL'S REPORT
DATED JANUARY 23, 1990

The above-captioned document was circulated to the Commission on Wednesday, January 24, 1990 at 11:00 a.m. .

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda for Tuesday, January 30, 1990.

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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
David R. Nagle; Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer; H. Daniel Holm, Jr.; and Edward J. Gallagher, Jr.	)	MUR 2985

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 30, 1990, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 2985:

1. Reject the request of David R. Nagle; Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer; H. Daniel Holm, Jr.; and Edward J. Gallagher, Jr., to take no further action.

2. Enter into conciliation with David R. Nagle prior to a finding of probable cause to believe.

3. Enter into conciliation with Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, prior to a finding of probable cause to believe.

(continued)

4. Enter into conciliation with H. Daniel Holm, Jr., prior to a finding of probable cause to believe.

5. Enter into conciliation with Edward J. Gallagher, Jr., prior to a finding of probable cause to believe.

6 Approve the proposed conciliation agreements and letter attached to the General Counsel's report dated January 23, 1990.

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

Attest:

2-1-90
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

February 5, 1990

Lyn Utrecht, Esq.
Manatt, Phelps, Rothenberg & Phillips
1200 New Hampshire Avenue, N.W., Suite 200
Washington, D.C. 20036

RE: MUR 2985
David R. Nagle; Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer; H. Daniel Holm, Jr.; and Edward J. Gallagher, Jr.

Dear Ms. Utrecht:

On September 19, 1989, the Federal Election Commission found reason to believe that your clients, David R. Nagle; Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, violated 2 U.S.C. § 441a(f). On that same date, the Commission found reason to believe your clients, H. Daniel Holm, Jr., and Edward J. Gallagher, Jr., violated 2 U.S.C. § 441a(a)(1)(A). On January 30, 1990, the Commission rejected your request to take no further action in this matter. On that same date, at your request, the Commission determined to enter into negotiations directed towards reaching conciliation agreements in settlement of this matter prior to a finding of probable cause to believe.

Enclosed are conciliation agreements that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreements, please sign and return them, along with the civil penalties, 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.

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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 Elizabeth Campbell, the attorney assigned to this matter, at (202) 376-82000.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreements (3)

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FEDERAL ELECTION COMMISSION

90 SEP -5 PM 4:33

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the matter of	)	
	)	
Nagle Campaign Committee and	)	MUR 2985
H. Daniel Holm, Jr., as	)	
treasurer; David R. Nagle;	)	
H. Daniel Holm, Jr.; and	)	
Edward J. Gallagher, Jr.	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter was generated by a referral from the Reports Analysis Division ("RAD"). On September 19, 1989, the Commission opened a MUR and found reason to believe David R. Nagle[1], Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, violated 2 U.S.C. § 441a(f); and found reason to believe H. Daniel Holm, Jr. and Edward J. Gallagher, Jr., violated 2 U.S.C. § 441a(a)(1)(A). The Commission's finding were based on a $20,000 loan Congressman Nagle obtained from the National Bank of Waterloo on December 19, 1988, for which Messrs Holm and Gallagher were guarantors in the amount of $10,000 each. In response to a Request for Additional Information from RAD on March 21, 1989, the loan was renegotiated on April 3, 1989. Only Congressman Nagle signed the April 3, 1989 promissory note.

On January 30, 1990, the Commission voted to enter into preprobable cause conciliation with the Respondents in this matter. Three separate conciliation agreements were sent out on February 5, 1990 -- one to David R. Nagle, the Nagle Campaign

1. David Nagle was a candidate for the U.S. House of Representatives from Iowa's 3rd congressional district in the 1988 election cycle. He won the 1988 general election with 63% of the vote.

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Committee and H. Daniel Holm, Jr., as treasurer, and one each to H. Daniel Holm, Jr., and Edward J. Gallagher.

Staff from this Office met with counsel for the Respondents on March 1, 1990, to discuss the conciliation agreement.

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Therefore, this Office recommends that the Commission reject the respondents counteroffer of August 16, 1990. The letter will inform counsel for the Respondents that this matter will move to the next stage of the enforcement process.

II. RECOMMENDATIONS

1. Reject the counteroffer of Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, et al.

2. Approve the appropriate letter.

Date 9/5/90

Lawrence M. Noble
General Counsel

Attachment:
1. Respondents counteroffer

Staff assigned: Elizabeth Campbell

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / DONNA ROACH DR
COMMISSION SECRETARY

DATE: SEPTEMBER 17, 1990

SUBJECT: MUR 2985 - GENERAL COUNSEL'S REPORT DATED SEPTEMBER 5, 1990

The above-captioned document was circulated to the Commission on Thursday, September 6, 1990 at 11:00 a.m.

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner Josefiak	
Commissioner McDonald	XXXXX
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda for Tuesday, September 25, 1990.

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	)	
	)	MUR 2985
Nagle Campaign Committee and	)	
H. Daniel Holm, Jr., as treasurer;	)	
David R. Nagle;	)	
H. Daniel Holm, Jr.; and	)	
Edward J. Gallagher, Jr.	)	

CORRECTED CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on September 25, 1990, do hereby certify that the Commission took the following actions in MUR 2985:

1. Decided by a vote of 5-1 to

   a) Reject the counteroffer of Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, et al.

   b) Approve the appropriate letter as recommended in the General Counsel's report dated September 5, 1990.

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

2. Decided by a vote of 5-0 to reconsider the action noted above.

   Commissioners Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for reconsideration; Commissioner Aikens was not present.

(continued)

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3. Decided by a vote of 4-1 to

a) Reject the counteroffer of Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, et al.

b) Take no further action as to David R. Nagle.

c) Direct the Office of General Counsel to send a counterproposal that would be the same as the conciliation agreement approved by the Commission on July 24, 1990, except that the references to the candidate as a respondent would be removed.

d) Direct the Office of General Counsel to send an appropriate letter which would inform the respondents they would have ten days to respond to the Commission's counterproposal.

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

Attest:

9-27-90
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

October 2, 1990

Lyn Utrecht, Esquire
Manatt, Phelps, Rothenberg & Phillips
1200 New Hampshire Ave., N.W.
Suite 200
Washington, D.C. 20036

RE: MUR 2985
Nagle Campaign Committee
and H. Daniel Holm, Jr.,
as treasurer;
David R. Nagle;
H. Daniel Holm, Jr.; and
Edward J. Gallagher, Jr.

Dear Ms. Utrecht:

This letter is to confirm the Federal Election Commission's receipt of the counter-proposed conciliation agreement you submitted on behalf of your clients on August 17, 1990.

The Commission has reviewed and rejected the counter-proposal. However, after considering the circumstances of this matter, the Commission determined on September 25, 1990, to take no further action against David R. Nagle, and close the file as it pertains to him.

The Commission is still hopeful that this matter can be settled through a conciliation agreement. Therefore, the Commission has approved a final counteroffer. Enclosed herewith is a conciliation agreement which we submit for signature.

Insofar as the 30 day period for pre-probable cause conciliation has elapsed, you should respond within ten (10) days of your receipt of this notification. If a response is not received within ten days, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

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Should you have any further questions, please contact Elizabeth Campbell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Lois G. Lerner /EB

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION COMMISSION
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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the matter of	)	
	)	
Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer	)	MUR 2985
	)	
H. Daniel Holm, Jr.	)	
	)	
Edward J. Gallagher, Jr.	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Lyn Utrecht, attorney for the Respondents in this matter.

The attached agreement contains no changes from the agreement approved by the Commission on September 25, 1990. The Respondents previously submitted a check for $3,000 on August 16, 1990. The Nagle Campaign Committee will send us an additional $1,000 after the Commission has accepted the conciliation agreement.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, et al..

2. Close the file.

3. Approve the appropriate letter.

11/2/90
Date

Lawrence M. Noble
General Counsel

Attachments
1. Conciliation Agreement

Staff Assigned: Elizabeth Campbell

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2985
Nagle Campaign Committtee and	)	
H. Daniel Holm, Jr., as treasurer;	)	
H. Daniel Holm, Jr.;	)	
Edward J. Gallagher, Jr.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 13, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 2985:

1. Accept the conciliation agreement with the Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, et al., as recommended in the General Counsel's Report dated November 2, 1990.

2. Close the file.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated November 2, 1990.

Commissioners Aikens, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision; Commissioner Elliott did not cast a vote.

Attest:

11/13/90
Date

Hilda Arnold
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Friday, Nov. 2, 1990 4:47 p.m.
Circulated to the Commission: Monday, Nov. 5, 1990 11:00 a.m.
Deadline for vote: Tuesday, Nov. 13, 1990 4:00 a.m.

dh

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

December 4, 1990

Lyn Utrecht, Esq.
Manatt, Phelps & Phillips
1200 New Hampshire Ave., N.W.
Suite 200
Washington, D.C. 20036

RE: MUR 2985
Nagle Campaign Committee
and H. Daniel Holm, as
treasurer, et al.

Dear Ms. Utrecht

On November 13, 1990, the Federal Election Commission accepted the conciliation agreement signed by you on October 25, 1990, and submitted on your clients behalf in settlement of a violation of 2 U.S.C. §§ 441a(a)(1)(A) and 441a(f), provisions of the Federal Election Campaign Act of 1971, as amended. Through an oversight in our Office, the conciliation agreement signed by you on August 16, 1990 was mistakenly signed and sent to you on November 20, 1990. As you know, the conciliation agreement signed by you on August 16, 1990 was rejected by the Commission and the one signed on October 25, 1990 was approved. A fully executed copy of the approved conciliation agreement is enclosed. Accordingly, the file has been closed in this matter.

This matter will become a part of the public record within 30 days after it has been closed with respect to all other respondents involved. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel. Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

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Please arrange for your clients to send us the additional $1,000 for the civil penalty within 30 days from the date the conciliation agreement was signed. If you have any questions, please contact Elizabeth Campbell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2985
Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, et al.	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Nagle Campaign Committee and H. Daniel Holm, Jr., as treasurer, ("Respondents") violated 2 U.S.C. § 441a(f); and reason to believe that two guarantors of a loan to the Nagle Campaign Committee ("Respondents") violated 2 U.S.C. § 441a(a)(1)(A).

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

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

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

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

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

1. Nagle Campaign Committee is a political committee

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within the meaning of 2 U.S.C. § 431(4) and the principal campaign committee of David R. Nagle within the meaning of 2 U.S.C. § 431(5). David R. Nagle was a candidate for the U.S. House of Representatives in the 1988 election cycle within the meaning of 2 U.S.C. § 431(2).

2. H. Daniel Holm, Jr. is the treasurer of the Nagle Campaign Committee.

3. H. Daniel Holm, Jr., and Edward J. Gallagher, Jr., are persons within the meaning of 2 U.S.C. § 431(11).

4. (a) The Federal Election Campaign Act of 1971, as amended ("the Act"), limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A).

(b) Commission regulations permit candidates for federal office to make unlimited expenditures from personal funds. 11 C.F.R. § 110.10. "Personal funds" include any assets which, under applicable state law, the candidate had legal right of access to or control over, and with respect to which the candidate had either legal and rightful title or an equitable interest. 11 C.F.R. § 110.10(b)(1).

(c) The Act defines "contribution" to include a loan made to the political committee. 2 U.S.C. §§ 431(8)(A).

(d) Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." A loan which exceeds the contribution limitations of 2 U.S.C. § 441a is unlawful whether or not it is repaid. In addition, a

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loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. Any repayment proportionately reduces the amount guaranteed or endorsed. 11 C.F.R. § 100.7(a)(1)(i).

(e) The Act provides that where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee(s). 2 U.S.C. § 432(e)(2).

(f) The Act prohibits a candidate or political committee from knowingly accepting any contribution or making any expenditure in violation of the provisions of Section 441a. In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make an expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under Section 441a. 2 U.S.C. § 441a(f).

5. David R. Nagle obtained a $20,000 loan from the National Bank of Waterloo on December 19, 1988, for the purpose of promptly repaying campaign debts. H. Daniel Holm, Jr. and Edward J. Gallagher, Jr., co-signed the promissory note and a credit agreement evidencing the terms of the loan. The Committee fully disclosed in its 1988 Year End Report that each individual had guaranteed the loan for $10,000. On March 21, 1989, the Commission mailed a Request for Additional Information to the

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Committee, informing them that the loan endorsements appeared to be excessive contributions from the two guarantors. On April 3, 1989, the $20,000 loan was renegotiated and signed only by David R. Nagle. No other signature, guarantee or endorsement was made.

V. 1. From December 19, 1988, to April 3, 1989, H. Daniel Holm, Jr., and Edward J. Gallagher, Jr., were guarantors of a $20,000 loan to the Nagle Campaign Committee. Because the Act defines a contribution to include loan guarantees in proportion to the number of guarantors, the $20,000 loan guarantee exceeded the applicable contribution limit by $18,000, or $9,000 with respect to each guarantor. Therefore, the two guarantors made contributions to the Nagle Campaign Committee in excess of the contribution limit, in violation of 2 U.S.C. § 441a(a)(1)(A) until the renegotiation of the loan on April 3, 1989. Accordingly, the Nagle Campaign Committee and its treasurer, accepted a $20,000 contribution in the form of a loan guarantee, which from December 19, 1989 to April 3, 1989 was $18,000 in excess of the applicable contribution limit, in violation of 2 U.S.C. § 441a(f).

2. Respondents contend that they did not knowingly and willfully violate any provision of the Act.

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of four thousand dollars ($4,000), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this

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agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

Date 12/7/90

FOR THE RESPONDENTS:

Lyn Utrecht
Manatt, Phelps, Rothenberg
& Phillips
Attorneys for the Respondents

Date 10/25/90

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2985

DATE FILMED 12/26/90 CAMERA NO. 2

CAMERAMAN AS

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 2985.

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FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

90 DEC 20 AM 11:03

LAW OFFICES
MANATT, PHELPS & PHILLIPS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

TELEPHONE (202) 463-4300
FAX (202) 463-4394
(202) 463-4395

1200 NEW HAMPSHIRE AVENUE, N.W.
SUITE 200
WASHINGTON, D.C. 20036

LOS ANGELES
11355 WEST OLYMPIC BOULEVARD
LOS ANGELES, CALIFORNIA 90064
(213) 312-4000

CLOSED

December 19, 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 DEC 21 AM 11:07

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: MUR 2985

Dear Mr. Noble:

Enclosed is the final $1,000 civil penalty in settlement of the above-referenced matter. This satisfies the obligations of the respondents, the Nagle Campaign Committee, H. Daniel Holm, Treasurer, and Edward Gallagher under the conciliation agreement.

Sincerely,

Lyn Utrecht

Lyn Utrecht
Manatt, Phelps & Phillips

Enclosure

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Dec. 20, 1990

TWO WAY MEMORANDUM

TO: Fabrae Brunson
OGC, Docket

FROM: Philomena Brooks
Accounting Technician

SUBJECt: Account Determination for Funds Received

We recently received a check from Nagle Campaign Committee, check number 918, dated 12/18/90, and in the amount of $ 1,000.00. Attached is a copy of the check and any correspondence that was forwarded. Please indicate below the account into which it should be deposited, and the MUR number and name.

TO: Philomena Brooks
Accounting Technician

FROM: Fabrae Brunson
OGC, Docket

In reference to the above check in the amount of $ 1,000, the MUR number is 2985 and in the name of Nagle Campaign Committee. The account into which it should be deposited is indicated below:

__ Budget Clearing Account (OGC), 95F3875.16

✓ Civil Penalties Account, 95-1099.160

__ Other: _____

Fabrae Brunson
Signature

12/21/90
Date

91040325471

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NAGLE CAMPAIGN COMMITTEE
P. O. BOX 792
WATERLOO, IA 50704

910

Dec 18 19 96 72-2194/739

PAY TO THE ORDER OF Federal Election Commission $ 1,000.00

One Thousand & no/100 DOLLARS

The Peoples Bank and Trust Company
Waterloo, Iowa 50704

MEMO

Ricky C. Gruis

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DEC 2007