FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3174

DATE FILMED 6/26/91 CAMERA NO. 4

CAMERAMAN AS

9104084447 14

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 23 October 1990

ANALYST: Karen White

I. COMMITTEE: La Rocco for Congress (C00241117)
John R. Tait, Treasurer
3915 West State Street
Boise, ID 83703

II. RELEVANT STATUTE: 2 U.S.C. §434(a)(6)
11 CFR §104.5(f)

III. BACKGROUND:

Failure to File a Forty-Eight Hour Notification

The La Rocco for Congress committee ("the Committee") has failed to file a required Forty-Eight (48) Hour Notification ("48-Hour Notice") for one (1) contribution/loan totaling $20,000 guaranteed by the candidate and received prior to the 1990 Primary Election.

The candidate was involved in the 1990 Primary Election held on May 22, 1990. Prior Notice was sent to the Committee on April 16, 1990 (Attachment 2). The Notice includes a section titled "Last-Minute Contributions". This section reads "Committees must also file special notices on contributions of $1,000 or more, received during the period May 3, 1990 through May 19, 1990. The notice must reach the appropriate federal and state offices within 48 hours of the committee's receipt".

Schedules A and C of the July Quarterly Report indicates that the Committee failed to file one (1) 48-Hour Notice for a contribution/loan received during the aforementioned reporting period (Attachment 3). The following is the name of the contributor for which no 48-Hour Notice was filed:

Contributor Name	Date	Amount
Larry La Rocco (guarantor of a bank loan)	5/4/90	$20,000

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On September 4, 1990, a Request for Additional Information ("RFAI") was sent to the Committee (Attachment 4). The RFAI noted on an informational basis that the Committee may have failed to file one or more of the required 48-Hour Notices for "last minute" contributions of $1,000 or more. The notice requested the Committee to review their procedures for checking contributions received during the aforementioned time period. In addition, the notice stated that although the Commission may take legal steps, any response would be taken into consideration.

On September 14, 1990, the committee responded, but failed to address this issue (Attachment 5).

To date, no further response has been received.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

91040944716

Attachment 1

FEDERAL ELECTION COMMISSION
1989-1990
CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

DATE 23OCT90

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY	RECEIPTS GENERAL	DISBURSEMENTS PRIMARY	DISBURSEMENTS GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
							TYPE OF FILER		
LA ROCCO, LARRY	HOUSE 01	DEMOCRATIC PARTY			IDAHO		1990 ELECTION	ID# H2ID01010	
1. STATEMENT OF CANDIDATE									
1990 STATEMENT OF CANDIDATE							21FEB90	1	90HSE/392/0922
2. PRINCIPAL CAMPAIGN COMMITTEE									
LA ROCCO FOR CONGRESS							ID #C00241117 HOUSE		
1990 STATEMENT OF ORGANIZATION							29JAN90	1	90HSE/387/4707
STATEMENT OF ORGANIZATION - AMENDMENT							21MAR90	1	90HSE/392/5161
48 HOUR CONTRIBUTION NOTICE							24MAY90	1	90HSE/398/1245
48 HOUR CONTRIBUTION NOTICE							29MAY90	1	90HSE/398/3620
STATEMENT OF ORGANIZATION - AMENDMENT							21JUN90	1	90HSE/399/3264
STATEMENT OF ORGANIZATION - AMENDMENT							2JUL90	1	90HSE/399/4512
APRIL QUARTERLY			34,781		16,011		1JAN90 -31MAR90	66	90HSE/393/4994
PRE-PRIMARY			17,501		33,488		31MAR90 - 2MAY90	34	90HSE/397/2905
PRE-PRIMARY - AMENDMENT			17,787		33,529		31MAR90 - 2MAY90	6	90HSE/399/4967
PRE-PRIMARY - AMENDMENT			-		-		31MAR90 - 2MAY90	1	90HSE/400/1547
REQUEST FOR ADDITIONAL INFORMATION							31MAR90 - 2MAY90	2	90FEC/643/0079
JULY QUARTERLY				72,336		61,902	3MAY90 -30JUN90	48	90HSE/404/4944
JULY QUARTERLY - AMENDMENT				-		-	9MAY90 -30JUN90	1	90HSE/407/4475
REQUEST FOR ADDITIONAL INFORMATION							3MAY90 -30JUN90	2	90FEC/654/3913
OCTOBER QUARTERLY				144,336		111,449	1JUL90 -30SEP90	143	90HSE/409/3216
TOTAL			52,568	216,672	49,540	173,351		309	TOTAL PAGES
3. AUTHORIZED COMMITTEES									
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN									

All reports except the October Quarterly have been reviewed.
Ending cash-on-hand as of 9/30/90 $46,348.95
Debts owed by committee as of 9/30/90 $59,824.03
Debts owed to committee as of 9/30/90 $0

9104034447117

Attachment 2

PRIMARY ELECTION

REPORT NOTICE

FEDERAL ELECTION COMMISSION

IDAHO April 16, 1990

REPORT	REPORTING PERIOD1/	REG./CERT. MAILING DATE2/	FILING DATE
PRE-PRIMARY	04/01/90 - 05/02/90	05/07/90	05/10/90
JULY QUARTERLY	05/03/90 - 06/30/90	07/15/90	07/15/90

WHO MUST FILE
PRINCIPAL CAMPAIGN COMMITTEES OF CONGRESSIONAL "CANDIDATES" who seek nomination in the May 22, 1990, Idaho Primary.

WHAT MUST BE REPORTED
All financial activity that occurred during the reporting period (or before, if not previously reported).

REPORTING FORMS
Candidate committees use Form 3 (enclosed). If the campaign has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 3X.

WHERE TO FILE
Consult the instructions on the back of the Form 3 Summary Page. Note state filing requirements also.

LABEL
Committees should affix the peel-off label from the envelope to Line 1 of the report. Corrections should be made on the label.

LAST-MINUTE CONTRIBUTIONS
Committees must also file special notices on contributions of $1,000 or more, received during the period May 3 through May 19, 1990. The notice must reach the appropriate federal and state offices within 48 hours of the committee's receipt. KW.

COMPLIANCE
TREASURERS OF POLITICAL COMMITTEES ARE RESPONSIBLE FOR FILING ALL REPORTS ON TIME. FAILURE TO DO SO IS SUBJECT TO ENFORCEMENT ACTION. COMMITTEES FILING ILLEGIBLE REPORTS OR USING NON-FEC FORMS WILL BE REQUIRED TO REFILE.

1/The period begins with the close of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
2/Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

FOR INFORMATION, Call: 800/424-9530 or 202/376-3120

91040847 18

Attachment [illegible] Page 1 of 2

[illegible]	[illegible]	[illegible]	[illegible]

[illegible]

1. Full Name, Mailing Address and ZIP Code Larry LaRocco 7500 Cherrywood Drive Boise, Idaho 83704	Name of Employer PIPER, [illegible] Occupation Vice Presi[illegible] Amount Guaranteed Outstanding $ [illegible]	[redacted]
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 $	

3. Full Name, Mailing Address and ZIP Code of Loan Source Larry LaRocco 7500 Cherrywood Drive Boise, Id. 83704 Location: ☐ Primary ☐ General ☐ Other (specify):	[illegible]	[illegible]	Amount Outstanding at Close of This Period 8,000.00

Terms: Date Incurred 6-18-90 Date Due 7-15-90 [illegible]

List All Endorsers or Guarantors (if any) to Item 3

1. Full Name, Mailing Address and ZIP Code Larry LaRocco 7500 Cherrywood Drive Boise, Id. 83704	Name of Employer PIPER, [illegible] Occupation Vice President Amount Guaranteed Outstanding $ 8,000.00	[redacted]
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)	28,000.00
TOTALS This Period (last page in this line only)	28,000.00

Carry outstanding balance only to LINE 2, Schedule B, for this line. If no Schedule B, carry forward to appropriate line of Summary.

[illegible]

[illegible] ...ent 3

[illegible] of 2 [illegible]

A. Full Name, Mailing Address and ZIP Code Key Bank P.O. Box 2800 Boise, Id. 83701 Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $ 20,000.00	Date (month, day, year) 5-04-90	Amount of Each Receipt this Period 20,000.00
B. Full Name, Mailing Address and ZIP Code Key Bank P.O. Box 2800 Boise, Id. 83701 Receipt For: ☐ Primary ☒ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $ 8,000.00	Date (month, day, year) 6-18-90	Amount of Each Receipt this Period 8,000.00
C. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
D. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
E. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
F. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period
G. Full Name, Mailing Address and ZIP Code Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Name of Employer Occupation Aggregate Year-to-Date > $	Date (month, day, year)	Amount of Each Receipt this Period

SUBTOTAL of Receipts This Page (optional)	28,000.00
TOTAL This Period (last page this line number only)	28,000.00

KW

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

SEP 4 1990

John R. Tait, Treasurer
La Rocco for Congress
3915 West State Street
Boise, ID 83703

Identification Number: C00241117

Reference: July Quarterly Report (5/3/90-6/30/90)

Dear Mr. Tait:

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 A of your report indicates that your committee may have failed to file one or more of the required 48 hour notices regarding "last minute" contributions received by your committee after the close of books for the 12 Day Pre-Primary Report. A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of $1,000 or more received between two and twenty days before an election. These contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of $1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions received during the aforementioned time period. Although the Commission may take legal action, any response you wish to make concerning this matter will be taken into consideration. (11 CFR §104.5(f)) KW

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

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found in 11 CFR §110.10. (11 CFR §§100.7(a)(1) and 104.3(d))

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,

Karen White

Karen W. White
Reports Analyst
Reports Analysis Division

91040844722

CERTIFIED MAIL

SEP 11 1990

Attachment 5

LaRocco

CONGRESS

★★★★

P.O. Box 1583, Boise, Idaho 83701
Telephone 208-343-6211
FAX 208-343-6726

September 10, 1990

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

Identification number: C00241117
Reference: July Quarterly Report

Please note the correction on source information for Schedule C, Loans Guaranteed by the Candidate, page 2 of 2. B should read:

KEY BANK
P.O. Box 2800
Boise, Idaho 83701

M. KARL SHURTLIFF,
ASST. TREASURER

9001407475

Authorized by LaRocco for Congress, John R. Tait, Treasurer. Contributions to this campaign are not tax deductible.

RECEIVED
90 NOV 13 AM 10:27

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

RAD Referral #90L-50
Staff Member: Dodie C. Kent

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

RESPONDENTS: LaRocco for Congress Committee and John R. Tait, as treasurer

RELEVANT STATUTE: 2 U.S.C. § 434(a)(6)

INTERNAL REPORTS CHECKED: Referral Material
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Office of the General Counsel received a referral from the Reports Analysis Division on October 24, 1990. Attachment 1. The basis of the attached referral is the failure of the LaRocco for Congress Committee and John R. Tait, as treasurer (the "Committee"), to timely file a required forty-eight (48) hour notification ("48 Hour Notice") for one (1) loan totaling $20,000 guaranteed by the candidate which was received by the Committee prior to the 1990 Primary Election.

II. FACTUAL AND LEGAL ANALYSIS

For the Factual and Legal Analysis, see Attachment 2.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

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III. **RECOMMENDATIONS**

1. Open a MUR.

2. Find reason to believe that the LaRocco for Congress Committee and John R. Tait, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), and enter into conciliation prior to a finding of probable cause to believe.

3. Approve the appropriate letter, Factual and Legal Analysis, and the proposed conciliation agreement.

Lawrence M. Noble
General Counsel

11/8/90
Date

BY: [signature]
Lois Lerner
Associate General Counsel

Attachments:
1. Referral Materials
2. Factual and Legal Analysis
3. Proposed Conciliation Agreement

BEFORE THE FEDERAL ELECTION COMMISSION

(MUR 3174)

In the Matter of	)	
	)	
LaRocco for Congress Committee	)	RAD Referral 90L-50
and John R. Tait, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 15, 1990, the Commission decided by a vote of 5-0 to take the following actions in RAD Referral 90L-50:

1. Open a MUR.

2. Find reason to believe the LaRocco for Congress Committee and John R. Tait, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), and enter into conciliation prior to a finding of probable cause to believe.

3. Approve the appropriate letter, Factual and Legal Analysis, and the proposed conciliation agreement, as recommended in the General Counsel's Report dated November 8, 1990.

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

Attest:

11/16/90
Date

Hilda Arnold
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Tuesday, Nov. 13, 1990 10:27 a.m.
Circulated to the Commission: Tuesday, Nov. 13, 1990 4:00 p.m.
Deadline for vote: Thursday, Nov. 15, 1990 4:00 p.m.

91040844726

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 30, 1990

John R. Tait, Treasurer
LaRocco For Congress Committee
3915 West State Street
Boise, ID 83703

Re: MUR 3174
LaRocco For Congress Committee
and John R. Tait, as treasurer

Dear Mr. Tait:

On November 15, 1990, the Federal Election Commission found that there is reason to believe the LaRocco For Congress Committee and you, as treasurer, violated 2 U.S.C. § 434(a)(6)(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 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 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.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

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If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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 Dodie C. Kent, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

9104084447728

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: The LaRocco For Congress Committee and John R. Tait, as treasurer MUR: 3174

The Federal Election Campaign Act of 1971, as amended (the "Act"), requires a federal candidate's principal committee to notify either the Clerk of the House, Secretary of the Senate or the Commission (as appropriate) and the Secretary of State, in writing, of each contribution totaling $1,000 or more received by any authorized committee of the candidate after the 20th day but not more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). Pursuant to the Act, a "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. § 431(8)(A)(i). While loans in the ordinary course of business and in accordance with applicable law by certain financial institutions are not considered contributions by the financial institution, each endorser or guarantor of the loan is considered to have made a contribution in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. See 2 U.S.C. § 431(8)(B)(vii)(I).

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Notification of any last minute contribution must be made within 48 hours after the receipt of the contribution and include the name of the candidate, identification of the contributor, and the date of receipt and the amount of the contribution. 2 U.S.C. § 434(a)(6)(A). Timely disclosure of these contributions is in addition to all other reporting requirements, pursuant to 2 U.S.C. § 434(a)(6)(b).

Mr. Larry LaRocco was a candidate for the U.S. House of Representatives from Idaho's First District in the May 22, 1990 primary election. According to the Statement of Organization filed with the Commission on February 21, 1990, LaRocco For Congress is the authorized principal campaign committee of Larry LaRocco, and John R. Tait is its treasurer.

Pursuant to 2 U.S.C. § 434(a)(6)(A), the Committee was required to notify the Commission, in writing, of all contributions of $1,000 or more received from May 3, 1990 until May 19, 1990 within 48 hours of receipt. On April 16, 1990, the Committee was reminded by the Commission, in writing, that contributions of $1,000 or more received during the period May 3, 1990 through May 19, 1990 must be reported to the appropriate federal and state offices within 48 hours of the Committee's receipt.

The Committee received one (1) contribution during the aforementioned time period that required a 48-Hour Notice.

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This contribution was a loan procured by the Committee and guaranteed by the candidate. It was received as follows:

Contributor Name	Date Received	Amount	Report Due
Mr. Larry LaRocco	5/4/90	$20,000	5/6/90

The Committee did not file a 48 Hour Notice for the above contribution, and the Commission was not informed of this last minute contribution until July 24, 1990, when the Committee filed its July 1990 quarterly report. Therefore, there is reason to believe that both the LaRocco For Congress Committee and John R. Tait, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 DEC 17 AM 11:26

Law Offices of
Keeton and Tait
P.O. DRAWER E
312 MILLER STREET
Lewiston, Idaho
83501

Paul C. Keeton
John Reid Tait

Derrick A. Ater

AREA CODE 208
743-6231

13 December 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC 17 PM 3:07

Federal Election Commission
Attention: Ms. Dodie C. Kent
999 E Street NW
Washington, D.C. 20463

Dear Ms. Kent:

Re: MUR 3174
LaRocco For Congress Committee and John R. Tait,
as treasurer

I have received your letter of November 30, 1990 concerning the above entitled matter. The letter was received by me on the 6th of December. I will be supplying, under separate cover, a more complete response pursuant to your letter as part of the negotiations in this matter.

The purpose of this letter is simply to let you now that we will be responding shortly. Given the time difference, it is difficult to get in touch with you but I will be trying to call concerning this matter. If you have any questions, please contact me at the address and phone number above.

Very truly yours,

John Reid Tait

JRT/dw

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OGC 9050

Law Offices of
Keeton and Tait
P.O. DRAWER E
312 MULLER STREET
Lewiston, Idaho
83501

Paul C. Keeton
John Reid Tait

Derrick A. Ater

AREA CODE 208
743-6231

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH
90 DEC 19 AM 10:36

14 December 1990

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
90 DEC 19 PM 12:08

Federal Election Commission
Attention: Ms. Dodie C. Kent
999 E Street NW
Washington, D.C. 20463

Dear Ms. Kent:

Re: MUR 3174
LaRocco For Congress Committee and John R. Tait, as treasurer

By a letter dated November 30, 1990, the Federal Election Commission has raised the possibility of a violation of the requirement to report a loan that was made after the 20th day of the campaign under the so called 48 hour rule. As will be set out in greater detail below, the loan was properly reported in the July 9, 1990 quarterly report and this was the first loan obtained by the candidate and every effort was made to comply with the "best efforts" guidelines of the Federal Election Commission and Campaign Guide.

That the purpose of this response is to set forth the facts as known to the treasurer of the LaRocco For Congress Committee, your undersigned and to accept the offer contained in the letter of November 30, 1990 to enter into negotiations directed toward resolving this matter prior to a finding of probable cause. The purpose of this letter is to participate in the negotiations on a confidential manner to seek a resolution of this matter.

I would first note that this matter came to my attention when the volunteer staffer who is handling the day to day posting of contributions contacted me after she was contacted by the Federal Election Commission after the filing of the July quarterly report. Subsequently, a letter dated September 4, 1990 with identification number C00241117 was sent to the campaign. Ms. Mary C. Hindson, the staffer handling these matters, contacted a Ms. Karen White of the FEC and we were informed that the loan should have been considered a contribution and reported. We were further informed that many other campaigns had made this same mistake and there was nothing further that could be done at that time. We were further informed that the matter might be taken up by the Commission at a later date.

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I have now had an opportunity to review the above referenced letter of November 30, 1990, the Factual and Legal Analysis and the proposed Conciliation Agreement.

For the moment I will not address the language in the Conciliation Agreement. It is our position that no action be taken in this matter and for the reasons stated hereinbelow, no Conciliation Agreement should be required. If it is ultimately determined that such an agreement is appropriate, we will seek to have it fully set forth the facts as known to us.

The FEC reports were handled on a regular basis by a volunteer staffer, Mary C. Hindson, who was provided with a copy of the FEC Campaign Guide and was supervised by the campaign manager, Ms. Eileen Cavanaugh. Ms. Hindson and Ms. Cavanaugh worked out of the campaign headquarters in Boise, Idaho. Your treasurer, the undersigned, is in Lewiston, Idaho, some 275 miles north of Boise. Matters which came to the attention of the campaign staff and, in particular, the manger and the FEC staff, were brought to my attention and all responsibility for FEC compliance and reports was mine.

The Report of Receipts and Disbursements dated 4/10/90 covering the period from January through March 31st and the Report of Receipts and Disbursements dated 5/4/90 for the period 3/31/90 through 5/2/90 were reviewed by me and discussed by me with Ms. Hindson. There were no loans reflected in either of those reports and the issue of characterization of loans as debts or contributions was not an issue in the reports filed prior to the date of the loan at issue now.

At the time the loan was obtained by the candidate, all the appropriate documents were completed with reference to the bank supplying the money, the guarantor, etc. That information was duly reported on the report of July 12, 1990.

The decision as to compliance with the 48 hour rule was made on the basis of the reference to the FEC Campaign Guide. The analysis that took place was to refer to page five of the Campaign Guide concerning the definition of a contribution. That definition and the definition found in Appendix One at page 60 refers to "anything of value given to influence a Federal election." The operative word to us was the word "given." There is nothing in the definition on page 5 under

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chapter 2 defining what is a contribution or in Appendix One on page 60 that includes a loan as a contribution.

On page 5, there is a subheading of loans and there is a reference to bank loans not being considered contributions when made in the ordinary course of business. This sentence, italicized and in parenthesis, excluding bank loans was believed to make clear that a bank loan was not a contribution. The analysis that was made was that since this was clearly a bank loan and was made in the ordinary course of business with proper documentation, at commercial rates, etc. and therefore this $20,000 was a loan and not a contribution. Since this was to be reflected in the Report of Receipts and Disbursements as a loan and was to be repaid to the candidate, the analysis was that this was not a contribution as such to be reported under the 48 hour rule described on page 24 of the FEC Campaign Guide. That section on "Last-Minute Contributions" clearly refers to "contributions of $1,000 or more" and further talks about reporting within 48 hours "of receiving such a contribution, ..." Again, there is no reference under the last minute contributions definition section on reporting to indicate that a loan made in the ordinary course of business which loan was to be repaid was to be considered a gift or contribution made to the campaign.

To further explore this matter at the time of the loan, the volunteer staffer contacted the bank that had supplied the money and confirmed that the loan was made in the normal course of business with a variable interest rate and thus the staffer felt comfortable that even under the "loan" definition that this was not something that had to be considered a contribution or something of value "given" to the campaign.

The campaign followed the proper treatment of the handling of this loan as required in the Campaign Guide and the reporting of this has been consistent throughout the reports filed. It has always been treated as a loan and a debt of the committee and not something "given" to the committee which could be considered a contribution under the definitions as contained in the Campaign Guide. At all stages in the handling of these reports, the treasurer and the staff made their best effort to properly perform their record keeping duties.

Quite simply, the analysis made in the campaign office went this far and seemed to be straight forward. The loan was

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reported as a loan and no reason was seen for reporting it as a contribution made under the 48 hour rule, because it was considered a loan and not a contribution under all the guidance in the Campaign Guide.

That during this period in the campaign there were a couple of $1,000 contributions which were received as contributions and which were properly and promptly reported under the 48 hour rule. When the staff was contacted by Ms. Karen White in September, 1990, it was noted by Ms. White that we did properly follow the provision of the 48 hour rule as to contributions. It is thus abundantly clear that the only reason that the loan at issue here was not reported under the 48 hour rule was the interpretation made of a loan and whether or not it had to be reported under the definitions contained in the Campaign Guide and its instructions. The Report of Receipts and Disbursements for the period through 5/2/90 only showed contributions through that time of $52,231.60. Thus the campaign was not in a position of having dealt with large sums of money on a regular basis.

In reviewing the Reports of Receipts and Disbursements filed, it appeared to me that each and every rule and regulation was followed and I know that great effort was made by the staff to properly record and report all contributions. Contributions that appeared to violate any of the rules or regulations were returned and all issues were clarified. At the time the loan was made that is the subject of this inquiry, a very thorough review was made by the staff of the Campaign Guide and the extra effort was made to check with the bank to make sure that the loan was made in the ordinary course of business. The problem in this case simply arose from the lack of clarity in the Campaign Guide which did not simply define a contribution as including a loan.

I would respectfully suggest that the definition in the Campaign Guide of a contribution clearly indicate that a loan is a contribution at the time it is made as is found in 11 C.F.R. Section 100.7. Further, I would suggest that the definitions section, Appendix One of the Campaign Guide contain a definition for loan and that it likewise contain the key language of 11 C.F.R. § 100.7(B). I trust that if this language had been included in the Campaign Guide that the problem that is the subject matter of this inquiry of November 30, 1990, would not have arisen.

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Based on the facts of the actual actions of the committee I respectfully submit that no further action is necessary on this matter, that there is no basis for any finding of probable action and that the matter be closed. Please contact me if I can be of any assistance in resolving this matter.

Very truly yours,

John Reid Tait

JRT/dw

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

91 JAN -9 AM 9:27

M. Karl Shurtliff
Attorney At Law

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 JAN 10 PM 12:26

January 7, 1991

Federal Election Commission
Attention: Ms. Dodie C. Kent
999 E. Street N.W.
Washington, D.C. 20463

Re: MUR 3174
LaRocco for Congress Committee and
John R. Tait, as Treasurer

Dear Ms. Kent:

I am writing on behalf of the LaRocco for Congress Committee. I was the assistant treasurer for that Committee. You will recall that you had prior correspondence and conversation with John R. Tait who is the Committee Treasurer. Unfortunately, Mr. Tait is at the moment involved in a family emergency that will not allow him to meet the January 7, 1991 deadline for the submission of a further response by the Committee.

It is my understanding that Mr. Tait has previously corresponded with you by letter dated December 13, 1990, and articulated the factual predicate for this matter as well as setting forth our position that the Committee was unaware at the time of the receipt of the sum of $20,000 on May 4, 1990, that it should be considered a "contribution" and thus subject to the 48 hour notification rule. The basis for that judgment was a reading of the FEC Campaign Guide. We are of the opinion that the Campaign Guide was sufficiently unclear so as to permit that judgment. While we appreciate that the Act and the Regulations adopted pursuant to that Act, do not in your view allow that interpretation, we trust that you will appreciate as well our view that we did not need look beyond the language in the Guide to determine what was or was not a "contribution." Of course, as you know, it is ordinarily held that one cannot rely on guidelines when there are regulations contra; e.g. Brown v. Lynn, 305 F. Supp 559 (1975); on the other hand, there are some cases that would suggest that one can rely on such guidelines, e.g. Paige v. Harris, 584 F.2d 178 (1978).

However, we do not wish to require either the Commission or the Committee to continue to expend resources on this matter. We appreciate, even if we do not agree with, your view. Accordingly,

816 West Bannock, Suite 404 • P.O. Box 1652 • Boise, Idaho 83701-1652
Telephone (208) 343-2900 • Telecopier (208) 344-0820

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we would be willing to enter into a conciliation agreement in order to resolve the matter.

Should we be able to provide further information, please do not hesitate to contact me. In that regard, I will be in Washington D.C. on January 25 and 28, 1991 and could meet with you and/or others at that time to discuss if that would be useful.

Our thanks for your cooperation.

Very truly yours,

M. Karl Shurtliff
Attorney at Law

MKS/dm

cc: John Tait, Esq.
LaRocco for Congress Committee

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RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 JAN 14 AM 10:09

M. Karl Shurtliff
Attorney At Law

January 9, 1991

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 JAN 14 PM 3:58

Federal Election Commission
Attention: Ms. Dodie C. Kent
999 E. Street N.W.
Washington, D.C. 20463

Re: MUR 3174
LaRocco for Congress Committee and
John R. Tait, as Treasurer

Dear Ms. Kent:

Please find enclosed a statement of Designation of Counsel form. Thank you.

Very truly yours,

M. Karl Shurtliff
Attorney at Law

MKS/dm
Enclosure
cc: John R. Tait

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816 West Bannock, Suite 404 • P.O. Box 1652 • Boise, Idaho 83701-1652
Telephone (208) 343-2900 • Telecopier (208) 344-0820

STATEMENT OF DESIGNATION OF COUNSEL

MUR 3174

NAME OF COUNSEL:	M. KARL SHURTLIFF	JOHN REID TAIT
ADDRESS:	P.O. 1652 Boise, ID 83701	P.O. Drawer E 312 Miller Street Lewiston, ID 83501
TELEPHONE:	208-343-2900	208-743-6231

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

Date 1/11/91

Larry LaRocco

RESPONDENT'S NAME:	LaROCCO FOR CONGRESS and John R. Tait as Treasurer
ADDRESS:	P.O. Box 1553 Boise, ID 83701
TELEPHONE:	208-343-4211

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91 JUN 10 PM 12:45

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3174
LaRocco For Congress and	)	
John R. Tait, as treasurer	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by M. Karl Shurtliff, counsel for the LaRocco For Congress Committee and John R. Tait, as treasurer.

Therefore, this Office recommends that the Commission accept the attached conciliation agreement with the LaRocco For Congress Committee and John R. Tait, as treasurer, and close the file.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the LaRocco For Congress Committee and John R. Tait, as treasurer.

2. Close the file in this matter.

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3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

Date 4/7/91

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachment
1. Conciliation Agreement
2. Copy of Civil Penalty Check(s)

Staff Assigned: Dodie C. Kent

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3174
LaRocco For Congress and	)	
John R. Tait, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 12, 1991, the Commission decided by a vote of 6-0 to take the following actions in MUR 3174:

1. Accept the conciliation agreement with the LaRocco For Congress Committee and John R. Tait, as treasurer, as recommended in the General Counsel's Report dated June 7, 1991.

2. Close the file in this matter.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated June 7, 1991.

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

Attest:

6-14-91
Date

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

Received in the Secretariat: Mon., June 10, 1991 11:45 a.m.
Circulated to the Commission: Mon., June 10, 1991 4:00 p.m.
Deadline for vote: Wed., June 12, 1991 4:00 p.m.

bjf

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 19, 1991

M. Karl Shurtliff, Esq.
P.O. Box 1652
Boise, ID 83701

RE: MUR 3174
LaRocco For Congress
Committee and John R.
Tait, as treasurer

Dear Mr. Shurtliff:

On June 12, 1991, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

This matter will become a part of the public record within 30 days. 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.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Dodie C. Kent, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3174
LaRocco For Congress Committee	)	
and John R. Tait, as treasurer	)	

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 the LaRocco For Congress Committee and John R. Tait, as treasurer ("Respondents"), violated 2 U.S.C. § 434(a)(6)(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.

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

1. Mr. Larry LaRocco was a candidate for the U.S. House of Representatives from Idaho's First District in the May 22, 1990 primary election. LaRocco For Congress is the authorized principal campaign committee for Mr. LaRocco's congressional campaign. See 2 U.S.C. § 431(5).

2. Mr. John R. Tait is the treasurer of LaRocco For Congress.

3. The Federal Election Campaign Act of 1971, as amended (the "Act"), requires principal campaign committees of candidates for Federal office to notify either the Clerk of the House, Secretary of the Senate or the Commission (as appropriate) and the Secretary of State, in writing, of each contribution totaling $1,000 or more received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires this notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and the office sought by the candidate, identification of the contributor, the date of receipt and the amount of the contribution. Id.

4. Timely disclosure of these contributions, pursuant to 2 U.S.C. § 434(a)(6)(A), is in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

5. Pursuant to 2 U.S.C. § 431(8)(A), a "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of

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influencing any election for Federal office. 2 U.S.C. § 431(8)(A)(i). While loans made in the ordinary course of business and in accordance with applicable law by certain financial institutions are not considered contributions by the financial institutions, each endorser or guarantor of the loan is considered to have made a contribution in that proportion of the unpaid balance that each endorser or guarantor bears to the total number of endorsers or guarantors. See 2 U.S.C. § 431(8)(B)(vii)(I).

6. The Act further defines a "person" to include an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons. 2 U.S.C. § 431(11).

7. Pursuant to 2 U.S.C. § 431(13), "identification" of an individual is the disclosure of the name, mailing address, and occupation of each individual, as well as his/her employer's name; and, in the case of any other "person," the full name and mailing address.

8. Pursuant to 2 U.S.C. § 434(a)(6)(A), respondents were required to notify the Clerk of the House, Secretary of the Senate or the Commission (as appropriate) and the Secretary of State, in writing, of all contributions of $1,000 or more received from May 3, 1990 through May 19, 1990 within 48 hours of receipt.

9. On the July 1990 Quarterly Report, respondents disclosed the receipt of a $20,000 contribution in the form of a bank loan guaranteed by candidate Larry LaRocco. Respondents

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were required to file a 48 Hour Notice for this contribution no later than May 6, 1990.

10. The contribution discussed in sub-paragraph 9 above was not reported until the Committee filed its July 1990 Quarterly Report, which was not received by the Commission until July 24, 1990.

11. Respondents contend that upon consulting the FEC Campaign Guide, they believed that the 48 Hour Notice requirement did not include guarantees for loans made "in the ordinary course of business."

V. Respondents failed to file a 48 Hour Notice for one (1) contribution in violation of 2 U.S.C. § 434(a)(6)(A).

VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of Seven Hundred Dollars ($700) pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

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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(s) 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

BY: Lois G. Lerner
Lois G. Lerner
Associate General Counsel

Date 6-19-91

FOR THE RESPONDENT(S):

M. Karl Shurtliff
M. Karl Shurtliff
Attorney at Law

Date May 6, 1991

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3174

DATE FILMED 6/26/91 CAMERA NO. 4

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 3174.

7/31/91

91040355243

LaRocco
CONGRESS
★★★★
P.O. Box 1553, Boise, Idaho 83701

CLOSED

July 1, 1991

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

RE: MUR 3174
LaRocco For Congress
Committee and John R.
Tait, as Treasurer

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Dear Mr. Noble:

On June 19, 1991, the Federal Election Commission offered the LaRocco for Congress Committee the option to submit factual or legal materials the Committee wishes to appear in the public record.

The Committee would like to request that Paragraph 11 of the conciliation agreement receive special emphasis in the public record, noting their reliance on the Campaign Guide which excluded bank loans made "in the ordinary course of business" from the contribution rule.

Thank you for this opportunity.

Sincerely,

M. Karl Shurtliff
Asst. Treasurer

Authorized by LaRocco for Congress, John R. Tait, Treasurer. Contributions to this campaign are not tax deductible.