



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 9251

DATE FILMED 6/7/91 CAMERA NO. 4

CAMERAMAN AS

91040843721

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: _____

ANALYST: ROBIN KELLY

I. COMMITTEE: Dick Nichols for Congress
(C00240614)
David A. O'Dell, Treasurer
P.O. Box 411
McPherson, KS 67460

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

III. BACKGROUND:

Failure to File Forty-Eight Hour Notifications

Dick Nichols for Congress ("the Committee") has failed to file the required Forty-Eight (48) Hour Notifications ("48-Hour Notices") for two (2) contributions/loans totaling \$44,617.21 received prior to the 1990 Primary Election.

The candidate was involved in the 1990 Primary Election held on August 7, 1990. Prior Notice was sent to the Committee on July 2, 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 July 19 through August 4, 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 October Quarterly Report indicate that the Committee failed to file two (2) 48-Hour Notices for contributions/loans received during the aforementioned period (Attachment 3). The following is a list of the contributions for which no 48-Hour Notices were filed:

<u>Contributor Name</u>	<u>Date</u>	<u>Amount</u>
Richard D. Nichols	7/27/90	\$43,000.00
Richard D. Nichols (loans from personal funds)	8/1/90	1,617.21

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On November 30, 1990, an Informational Notice ("IN") was sent to the Committee (Attachment 4). The IN noted 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 December 3, 1990, Cheri Dahlsten, the office manager called regarding the IN indicating that some 48-hour notices had not been filed (Attachment 5). She was informed, by the analyst, that the notices not filed were two loans made by the candidate. She said that perhaps it wasn't realized that loans were also to be reported. She apologized for the oversight. On December 5, 1990, David O'Dell, the committee treasurer called regarding the omitted 48-hour notices (Attachment 6). He said that for all the other contributions which required the 48-hour notice, the notices had been sent, but that the in-house contributions had been missed. He apologized for the missed notices and said that they have corrected the procedures so to make certain contributions were not missed in future reporting.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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

DATE 31JAN91

PAGE 1

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/ PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
		PRIMARY	GENERAL	PRIMARY	GENERAL			

NICHOLS, RICHARD D	HOUSE OS REPUBLICAN PARTY			KANSAS		1990 ELECTION	ID# HOK905033	
1. STATEMENT OF CANDIDATE						3JAN90		1 90HSE/387/0391
1990 STATEMENT OF CANDIDATE								
2. PRINCIPAL CAMPAIGN COMMITTEE								

DICK NICHOLS FOR CONGRESS				ID #C00240614	HOUSE		
1990 STATEMENT OF ORGANIZATION				3JAN90			1 90HSE/387/0392
MISCELLANEOUS REPORT TO FEC				4SEP90			2 90HSE/407/3710
48 HOUR CONTRIBUTION NOTICE				22OCT90			1 90HSE/413/1929
48 HOUR CONTRIBUTION NOTICE				26OCT90			1 90HSE/416/0792
48 HOUR CONTRIBUTION NOTICE				30OCT90			1 90HSE/416/1319
48 HOUR CONTRIBUTION NOTICE				2NOV90			1 90HSE/417/0994
APRIL QUARTERLY		55,496		41,339		31MAR90	80 90HSE/395/3187
APRIL QUARTERLY - AMENDMENT		-		-		31MAR90	1 90HSE/399/0422
REQUEST FOR ADDITIONAL INFORMATION						31MAR90	2 90FEC/641/1121
JULY QUARTERLY		86,916		96,542		1APR90 -30JUN90	64 90HSE/401/0179
JULY QUARTERLY - AMENDMENT		-		-		1APR90 -30JUN90	6 90HSE/407/3086
PRE-PRIMARY		-		-		1JUL90 -18JUL90	22 90HSE/405/0499
PRE-PRIMARY - AMENDMENT		-		-		1JUL90 -18JUL90	8 90HSE/407/3086
NOTICE OF FAILURE TO FILE						1JUL90 -18JUL90	1 90FEC/651/1147
OCTOBER QUARTERLY			241,733		239,155	1JUL90 -30SEP90	85 90HSE/412/0175
1 ST LETTER INFORMATIONAL NOTICE						1JUL90 -30SEP90	1 90FEC/671/5261
PRE-GENERAL			36,736		35,327	1OCT90 -17OCT90	29 90HSE/415/4828
PRE-GENERAL - AMENDMENT			36,736		35,327	1OCT90 -17OCT90	29 90HSE/421/3200
PRE-GENERAL - AMENDMENT			36,736		26,282	1OCT90 -17OCT90	30 90HSE/422/2468
PRE-GENERAL - AMENDMENT			-		-	1OCT90 -17OCT90	2 91HSE/425/0135
REQUEST FOR ADDITIONAL INFORMATION						1OCT90 -17OCT90	2 90FEC/671/3104
REQUEST FOR ADDITIONAL INFORMATION 2ND						1OCT90 -17OCT90	1 90FEC/679/0170
POST-GENERAL			120,079		135,900	18OCT90 -26NOV90	50 90HSE/421/0285
POST-GENERAL - AMENDMENT			120,079		135,900	18OCT90 -26NOV90	52 90HSE/422/2498
POST-GENERAL - AMENDMENT			120,079		135,900	18OCT90 -26NOV90	7 91HSE/423/0200
YEAR-END			32,228		26,192	27NOV90 -31DEC90	29 91HSE/423/2427
TOTAL		142,412	430,776	137,881	427,529		508 TOTAL PAGES

3. AUTHORIZED COMMITTEES
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN

- All reports except the 1990 Year-End have been reviewed.
- Debts owed to the Committee as of 12/31/90: \$0
- Debts owed by the Committee as of 12/31/90: \$315,550.97
- Cash-on-hand as of 12/31/90: \$7,776.87

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PRIMARY ELECTION | ATTACHMENT 2
REPORT NOTICE

FEDERAL ELECTION COMMISSION

KANSAS

July 2, 1990

REPORT	REPORTING PERIOD¹/	REG./CERT. MAILING DATE²/	FILING DATE
PRE-PRIMARY	07/01/90 - 07/18/90	07/23/90	07/26/90
OCTOBER QUARTERLY	07/19/90 - 09/30/90	10/15/90	10/15/90

WHO MUST FILE

PRINCIPAL CAMPAIGN COMMITTEES OF CONGRESSIONAL "CANDIDATES" who seek nomination in the August 7, 1990, Kansas 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 32.

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 July 19 through August 4, 1990. The notice must reach the appropriate federal and state offices within 48 hours of the committee's receipt.

COMPLIANCE

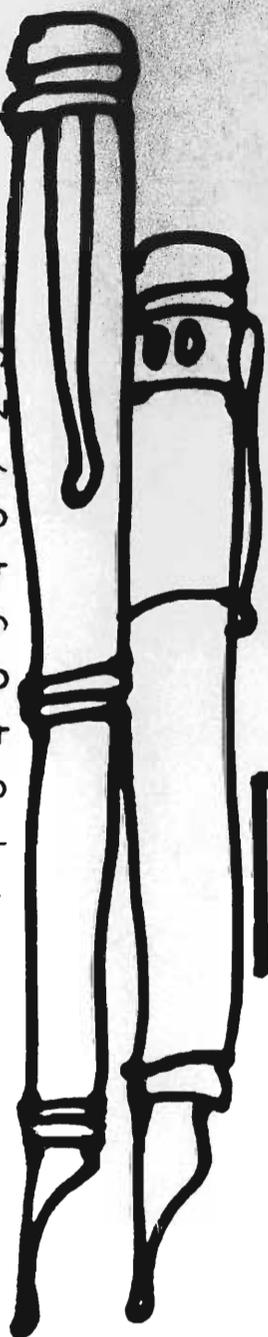
TREASURERS OF POLITICAL COMMITTEES ARE RESPONSIBLE FOR FILING ALL REPORTS ON TIME. FAILURE TO DO SO IS SUBJECT TO ENFORCEMENT ACTION. COMMITTEES FILING ILLEGIBLE REPORTS OR USING NON-FEC FORMS WILL BE REQUIRED TO REFILE.

¹The 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.

²Reports 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

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** Any information copied from these reports or statements may NOT be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name & address of a political committee to solicit that commit

Name of Committee (in Full): NICHOLS FOR CONGRESS COMMITTEE

A. Full Name, Address, Zip	Employer & Occupation	Date	Amount
Nichols, Richard D. 404 Lakeside Dr. McPherson, KS 67460	Banker	07/11/90	5000.00

Election: PRIMARY Total Year-to-Date: \$ 111936.83

B. Full Name, Address, Zip	Employer & Occupation	Date	Amount
Nichols, Richard D. 404 Lakeside Dr. McPherson, KS 67460	Banker	07/17/90	1909.81

Election: PRIMARY Total Year-to-Date: \$ 113846.64

C. Full Name, Address, Zip	Employer & Occupation	Date	Amount
Nichols, Richard D. 404 Lakeside Dr. McPherson, KS 67460	Banker	07/18/90	3200.00

Election: PRIMARY Total Year-to-Date: \$ 165436.64

D. Full Name, Address, Zip	Employer & Occupation	Date	Amount
Nichols, Richard D. 404 Lakeside Dr. McPherson, KS 67460	Banker	07/27/90	43000.00

Election: PRIMARY Total Year-to-Date: \$ 208436.64

E. Full Name, Address, Zip	Employer & Occupation	Date	Amount
Nichols, Richard D. 404 Lakeside Dr. McPherson, KS 67460	Banker	08/01/90	1617.21

Election: PRIMARY Total Year-to-Date: \$ 210053.85

F. Full Name, Address, Zip	Employer & Occupation	Date	Amount
Nichols, Richard D. 404 Lakeside Dr. McPherson, KS 67460	Banker	08/15/90	9000.00

Election: GENERAL Total Year-to-Date: \$ 219053.85

SUBTOTAL FOR PAGE: 157133.02

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LOANS

Name of Committee (in Full) Dick Nichols for Congress			
A. Full Name, Mailing Address and ZIP Code of Loan Source Richard Nichols 404 Lakeside Dr. McPherson, KS 67460		Original Amount of Loan 52,800.00 Personal Funds	Cumulative Payment To Date -0-
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		Balance Outstanding at Close of This Period 52,000.00	
Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % (per) <input type="checkbox"/> 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 \$	
B. Full Name, Mailing Address and ZIP Code of Loan Source Richard Nichols 404 Lakeside Dr. McPherson, KS 67460		Original Amount of Loan 43,000.00	Cumulative Payment To Date -0-
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		Balance Outstanding at Close of This Period 43,000.00	
Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % (per) <input type="checkbox"/> Secured			
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 (see page in this line only)			
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

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SCHEDULE C
(Revised 3/80)

1990 October Quarterly Report
LOANS

Page 2 of 2 for
LINE NUMBER 112
Use separate schedules
for each numbered line!

Name of Committee (in Full) Dick Nichols for Congress			
A. Full Name, Mailing Address and ZIP Code of Loan Source Richard Nichols 404 Lakeside Dr. McPherson, KS 67460		Original Amount of Loan 1505.01 Personal Funds	Cumulative Payment To Date 1532.90 Includes Interest
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		Balance Outstanding at Close of This Period -0-	
Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % (appt) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	[REDACTED]
		Occupation	
		Amount Guaranteed Outstanding \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	[REDACTED]
		Occupation	
		Amount Guaranteed Outstanding \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	[REDACTED]
		Occupation	
		Amount Guaranteed Outstanding \$	
B. Full Name, Mailing Address and ZIP Code of Loan Source Richard Nichols 404 Lakeside Dr. McPherson, KS 67460		Original Amount of Loan 1617.21 Personal Funds	Cumulative Payment To Date 1642.64 Includes Interest
Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):		Balance Outstanding at Close of This Period -0-	
Terms: Date Incurred _____ Date Due _____ Interest Rate _____ % (appt) <input type="checkbox"/> Secured			
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	[REDACTED]
		Occupation	
		Amount Guaranteed Outstanding \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	[REDACTED]
		Occupation	
		Amount Guaranteed Outstanding \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	[REDACTED]
		Occupation	
		Amount Guaranteed Outstanding \$	
SUBTOTALS This Period This Page (optional)			
TOTALS This Period (next page in this line only)			
Carry outstanding balances only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20543

80-5

NOV 30 1990

David A. O'Dell, Treasurer
Dick Nichols for Congress
P.O. Box 411
McPherson, KS 67460

Identification Number: C00240614

Reference: October Quarterly Report (7/1/90-9/30/90)

Dear Mr. O'Dell:

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 itemisation 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(2))

Any amendment or clarification should be filed with the Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, DC 20515. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Robin Kelly
Reports Analyst
Reports Analysis Division

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90036715363

MEMORANDUM TO FILES:

DATE 12/3/90

TELECON X
VISIT

NAME OF COMMITTEE: Dick Nichols for Congress - C00240614

SUBJECT: Failure to File Required 48-Hour Notices

FEC REP: Robin Kelly, RAD Analyst

COMMITTEE REP: Cheri Dahlston, Office Manager

On December 3, 1990, Cheri Dahlston called regarding the Informational Notice sent 11/30/90. Ms. Dahlston asked which 48-hour notices were not filed. The analyst informed her of the two candidate loans that we did not receive notices for. She said that perhaps it wasn't realized that loans were also to be included. She apologized for the oversight.

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MEMORANDUM TO FILES:

DATE 12/5/90

TELECON X
VISIT

NAME OF COMMITTEE: Dick Nichols for Congress

SUBJECT: Failure to File Required 48-Hour Notices

FEC REP: Robin Kelly, RAD Analyst

COMMITTEE REP: David O'Dell, Treasurer

On December 5, 1990, David O'Dell called regarding the failure to file two 48-hour notices for the candidate loans. He said that all the other notices had been filed, but apparently, these two in-house loans had been missed. He apologized for the oversight and said the Committee had taken steps to insure these notices were not missed in the future.

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91 MAR 29 PM 12:28

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

**RAD Referral # 91L-14
Staff Member Mary P. Mastrobattista**

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

**RESPONDENTS: Dick Nichols for Congress and David A. O'Dell, as
treasurer**

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

INTERNAL REPORTS CHECKED: 1990 Statement of Candidacy
1990 Statement of Organization
1990 October Quarterly Report
1990 12-Day Pre-General Report
1990 30-Day Post-General Report
1990 Year-End Report

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On February 8, 1991, the Reports Analysis Division ("RAD") referred Dick Nichols for Congress ("the Committee") and David A. O'Dell, as treasurer, to this Office for failing to report within 48 hours of receipt two contributions totaling \$44,617.21, which were received after the 20th day, but more than 48 hours before the August 7, 1990 Kansas Primary Election. (Attachment 1). The contributions which the Committee failed to report within 48 hours of receipt were two loans from the

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candidate in the amount of \$43,000 and \$1,617.21.¹
(Attachment 1, pages 6-8).

II. FACTUAL AND LEGAL ANALYSIS

For the Factual and Legal Analysis, see Attachment 2.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe Dick Nichols for Congress and David A. O'Dell, as treasurer, violated 2 U.S.C. § 434(a)(6), and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the attached Factual and Legal Analysis and

1. The Committee first reported receipt of the \$43,000 loan from the candidate on the October Quarterly Report filed on October 11, 1990. The Committee failed to indicate on the October Quarterly Report that this loan was derived from the candidate's personal funds. The Committee did, however, indicate that the \$43,000 loan was derived from the candidate's personal funds on an amended 12-Day Pre-General Report filed with the Commission on December 24, 1990. The Committee has indicated that the \$43,000 loan was derived from the candidate's personal funds on all subsequent reports filed with the Commission.

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conciliation agreement, and the appropriate letter.

Lawrence M. Noble
General Counsel

Date 3/29/91

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

1. Referral Materials
2. Factual and Legal Analysis
3. Proposed agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Dick Nichols for Congress and) RAD Referral #91L-14
David A. O'Dell, as treasurer.)

(MUR 3281)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 3, 1991, the Commission decided by a vote of 6-0 to take the following actions in RAD Referral #91L-14:

1. Open a MUR.
2. Find reason to believe Dick Nichols for Congress and David A. O'Dell, as treasurer, violated 2 U.S.C. § 434(a)(6), and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the Factual and Legal Analysis and conciliation agreement, and the appropriate letter, as recommended in the General Counsel's Report dated March 29, 1991.

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

Attest:

April 3, 1991
Date

Delores Harris
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Fri., Mar. 29, 1991 12:28 p.m.
Circulated to the Commission: Mon., April 1, 1991 11:00 a.m.
Deadline for vote: Wed., April 3, 1991 11:00 a.m.

dr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 9, 1991

David O'Dell, Treasurer
Dick Nichols for Congress
P.O. Box 411
McPherson, KS 67460

RE: MUR 3251
Dick Nichols for Congress
and David O'Dell, as
treasurer

Dear Mr. O'Dell:

On April 3, 1991, the Federal Election Commission found that there is reason to believe Dick Nichols for Congress and you, as treasurer, violated 2 U.S.C. § 434(a)(6), 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 Dick Nichols for Congress 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 Dick Nichols for Congress 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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David A. O'Dell, Treasurer
Page Two

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 Mary Mastrobattista, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



John Warren McGarry
Chairman

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

91040843737

FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Dick Nichols for Congress and
David A. O'Dell, as treasurer

MUR 3251

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The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that the principal campaign committee of a candidate for federal office shall notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing of any contribution of \$1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. 2 U.S.C. § 434(a)(6)(A). Section 431(8)(A)(i) of the Act defines the term "contribution" to include 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.

Richard D. Nichols was a candidate for the U.S. House of Representatives from Kansas' Fifth District in the 1990 primary and general elections. Richard D. Nichols won the primary election held on August 7, 1990, and also won the general election in November. According to the Statement of Candidacy and Statement of Organization filed with the Commission on

January 9, 1990, Dick Nichols for Congress ("the Committee") is the authorized principal campaign committee of Richard D. Nichols, and David A. O'Dell is its treasurer.

Pursuant to 2 U.S.C. § 434(a)(6)(A), the Committee was required to notify the Clerk of the House of Representatives in writing, of all contributions of \$1,000 or more received from July 19, 1990 through August 4, 1990 within 48 hours of receipt. On July 2, 1990, the Committee was reminded by the Commission, in writing, that contributions of \$1,000 or more received during the period of July 19, 1990 through August 4, 1990 must be reported to the appropriate federal and state offices within 48 hours of receipt.

The Committee received two contributions during the period of July 19, 1990 through August 4, 1990 that required the Committee to file 48-Hour notices. The following is a list of the two contributions for which the Committee failed to file the required 48-Hour notices:

<u>Contributor Name</u>	<u>Date</u>	<u>Amount</u>
Richard D. Nichols	07-27-90	\$43,000.00
Richard D. Nichols	08-01-90	\$ 1,617.21

Both contributions were reported by the Committee on the October 1990 Quarterly Report and were listed as loans from the candidate.

As stated earlier, 2 U.S.C. § 434(a)(6)(A) requires Committees to file 48-Hour notices for contributions of \$1,000 or more received after the 20th day, but more than 48 hours before, any election. The Committee failed to file 48-Hour

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notices for two loans totaling \$44,617.21 received within this time period. Therefore, there is reason to believe Dick Nichols for Congress and David A. O'Dell, as treasurer, violated 2 U.S.C. § 434(a)(6).

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91 MAY 17 PM 12:31

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)	
)	MUR 3251
Dick Nichols for Congress)	
and David A. O'Dell, as)	
treasurer)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On April 3, 1991, the Commission found reason to believe that Dick Nichols for Congress and David A. O'Dell, as treasurer, violated 2 U.S.C. § 434(a)(6). On that same date, the Commission determined to enter into conciliation prior to a finding of probable cause to believe. This Report recommends acceptance of the attached conciliation agreement.

II. ANALYSIS

Attached is a conciliation agreement which has been signed by David A. O'Dell, the treasurer of Dick Nichols for Congress. The attached agreement contains no changes from the agreement approved by the Commission on April 3, 1991. A check in payment of the civil penalty has not yet been received.

III. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Dick Nichols for Congress and David A. O'Dell, as treasurer.
2. Close the file.

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3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

Date 5/17/91

BY: 
Lois G. Lerner
Associate General Counsel

Attachment
1. Conciliation Agreement

Staff Assigned: Mary P. Mastrobattista

91040843742

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Dick Nichols for Congress) MUR 3251
and David A. O'Dell, as)
treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 22, 1991, the Commission decided by a vote of 6-0 to take the following actions in MUR 3251:

1. Accept the conciliation agreement with Dick Nichols for Congress and David A. O'Dell, as treasurer.
2. Close the file.
3. Approve the appropriate letter, as recommended in the General Counsel's Report dated May 17, 1991.

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

Attest:

5/22/91
Date

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

Received in the Secretariat: Fri., May 17, 1991 12:31 p.m.
Circulated to the Commission: Mon., May 20, 1991 11:00 a.m.
Deadline for vote: Wed., May 22, 1991 11:00 a.m.

dr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 28, 1991

CLOSED

David A. O'Dell, Treasurer
Dick Nichols for Congress
P.O. Box 411
McPherson, KS 67460

RE: MUR 3251
Dick Nichols for Congress
and David A. O'Dell,
as treasurer

Dear Mr. O'Dell:

On May 22, 1991, the Federal Election Commission accepted the signed conciliation agreement submitted on behalf of Dick Nichols for Congress and David A. O'Dell, as treasurer, in settlement of a violation of 2 U.S.C. § 434(a)(6), 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. Please note that payment of the civil penalty in the amount of \$1,500 is due within 30

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David A. O'Dell
Page 2

days. If you have any questions, please contact
Mary P. Mastrobattista, the attorney assigned to this matter, at
(202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel



BY: Lois G. Herner
Associate General Counsel

Enclosure
Conciliation Agreement

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OBC 1029
RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 MAY -6 PM 3:02

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Dick Nichols for Congress) MUR 3251
and David A. O'Dell, as)
treasurer)

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 MAY -7 AM 11:36

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 Dick Nichols for Congress and David A. O'Dell, as treasurer ("Respondents") violated 2 U.S.C. § 434(a)(6).

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. Dick Nichols for Congress is a political committee within the meaning of 2 U.S.C. § 431(4).

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2. David A. O'Dell is the treasurer of Dick Nichols for Congress.

3. 2 U.S.C. § 434(a)(6)(A) provides that the principal campaign committee of a candidate for federal office shall notify the appropriate authority, in writing, of any contribution of \$1,000 or more received after the 20th day, but more than 48 hours before, an election. The notification shall be made within 48 hours after the receipt of such contribution by the committee.

4. Under 2 U.S.C. § 431(8)(A)(i) 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.

5. Respondents were required to file 48-Hour notices for contributions of \$1,000 or more received from July 19, 1990 through August 4, 1990.

6. Respondents failed to file 48-Hour notices for two contributions in the amount of \$43,000 and \$1,617.21 which were reported as loans from Richard D. Nichols to the Committee and were received by the Committee on July 27, 1990 and August 1, 1990, respectively.

V. Respondents failed to file 48-Hour notices for two contributions totaling \$44,617.21 received between July 19, 1990 and August 4, 1990 in violation of 2 U.S.C. § 434(a)(6)(A).

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VI. Respondents will pay a civil penalty to the Federal Election Commission in the amount of One Thousand Five Hundred dollars (\$1,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

VIII. This agreement shall become effective as of the date that all parties hereto have executed 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

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

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: *[Signature]*
Lois G. Lerner
Associate General Counsel

5/28/91
Date

FOR THE RESPONDENTS:

David A. O'Dell, Treasurer
(Name) David O'Dell
(Position) Treasurer

May 2, 1991
Date

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF FILM # 9251

DATE FILMED 6/9/91 CAMERA NO. 4

CAMERAMAN AS

91040843750



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3251.

6/17/91

91040845409

CLOSED

FROM THE OFFICE OF
DAVID A. O'DELL

65-91

Dear Mary Mastrobattista,

As per our conversation on June 5, 1991
I have enclosed check #254 for \$1,500.00
which replaces the lost check #253.
Thank you.

David A. O'Dell

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 JUN 10 AM 9:26

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 10, 1991

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 DAVID A O'DELL, check number 254, dated _____, and in the amount of \$ 1,500.00. 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 JOB
OGC, Docket

In reference to the above check in the amount of \$ 1,500, the MUR number is 3251 and in the name of Dir. Nichols by Congress. 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 D. Brunson
Signature

June 10, 1991
Date

91040845411

06C1484

DICK NICHOLS FOR CONGRESS
% DAVID A. O'DELL, TREAS.
P.O. BOX 411 PH. 316-241-5359
MC PHERSON, KS 67460

254

83-159/1011

6-5-91

PAY TO THE ORDER OF

Federal Election Commission

\$1,500.⁰⁰
DOLLARS

One thousand five hundred & no/100



HOME STATE BANK
& TRUST CO.
MC PHERSON, KANSAS 67460

MEMO

Refers #253

David O'Dell
Mary Rodgers

⑆101101594⑆ 2 6608 6⑈ 0254

91040845412

91 JUN 10 PM 3:15

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF LEGAL COUNSEL