



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

730100521110

THIS IS THE END OF MUR # 442



FEDERAL ELECTION COMMISSION

- (5) Memo: to file from Charles N. Steele.
- (5) Unsigned draft correspondence between NBG + FEC
- (7) Comptrollers report to D. of Justice

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- |  |   |
|--|---|
| <input type="checkbox"/> (1) Classified Information                                | <input type="checkbox"/> (6) Personal privacy                             |
| <input type="checkbox"/> (2) Internal rules and practices                          | <input checked="" type="checkbox"/> (7) Investigatory files               |
| <input type="checkbox"/> (3) Exempted by other statute                             | <input type="checkbox"/> (8) Banking Information                          |
| <input type="checkbox"/> (4) Trade secrets and commercial or financial information | <input type="checkbox"/> (9) Well Information (geographic or geophysical) |
| <input checked="" type="checkbox"/> (5) Internal Documents                         |   |

Signed Robert Pagan  
date 6/20/78

7901005:1120



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

June 22, 1978

Ronald Eastman, Esquire  
Cadwalader, Wickersham & Taft  
Eleven Dupont Circle, N.W.  
Washington, D.C. 20036

Re: MUR 442 (77)

Dear Mr. Eastman:

The Commission, on June 21, 1978, agreed to accept the conciliation agreement that you have signed. Enclosed please find a copy of the agreement signed by me for your records.

Sincerely yours,

A handwritten signature in black ink, appearing to read "William C. Oldaker".

William C. Oldaker  
General Counsel

73040052421

Ronald Eastman, Esquire  
Cadwalader, Wickersham & Taft  
Eleven Dupont Circle, N.W.  
Washington, D.C. 20036

Re: MUR 442 (77)

Dear Mr. Eastman:

The Commission, on June , 1978, agreed  
to accept the conciliation agreement that you have  
signed. Enclosed please find a copy of the  
agreement signed by me for your records.

Sincerely yours,

William C. Oldaker  
General Counsel

RB  
6/20

78040052422

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 442 (77)  
Committee for Jimmy Carter )

CONCILIATION AGREEMENT

7 9 9 4 0 3 5 1 1 2 3  
This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the Committee for Jimmy Carter violated the provisions of 2 U.S.C. §441b;

NOW, THEREFORE, the Federal Election Commission and the Committee for Jimmy Carter having duly entered into conciliation as provided for in 2 U.S.C. §437g(a) (5), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.

II. The Committee for Jimmy Carter has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

A. Prior to the Democratic National Convention in July, 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.

B. During the primary campaign, staff of the Committee

for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia, and during the election campaign, a bank officer arranged for use of this plane by two officials of the Democratic National Committee.

- 7 3 0 1 0 0 3 1 1 2 1
- C. Expenses related to the use of the National Bank of Georgia aircraft were not billed to the Committee until August 22, 1977, and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.
  - D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for officials of the Democratic National Committee took place on September 5, 1976.
    - 1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stop-overs in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
    - 2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia, and Dalton, Georgia.
    - 3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia, and Americus, Georgia.
    - 4. The June 13, 1976 flight departed from Americus, Georgia, and then landed in Brunswick, Georgia, and Atlanta, Georgia.
    - 5. The September 5, 1976 flight departed from Atlanta,

Georgia, and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended, ("FECA"), prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The failure of the Committee to pay for the use of the National Bank of Georgia's aircraft until August, 1977, constituted its receipt of in-kind contributions, in violation of 2 U.S.C. §441b.

VI. The Committee will pay to the Treasury of the United States a civil penalty in the amount of Twelve Hundred Dollars (\$1,200), the approximate market value of the flights in issue.

VII. The Committee agrees that in the future, it will compensate any corporations or national banks which rent aircraft for campaign related travel in accordance with the Federal Election Campaign Act and any valid regulations of the Federal Election Commission then in effect.

VIII. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

IX. This agreement shall not be construed as an admission by the respondent Committee that it has knowingly and willfully violated any provision of law.

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GENERAL CONDITIONS

X. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue in this Agreement, 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.

XI. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

XII. It is agreed that the Campaign Committee shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XIII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

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6/21/78

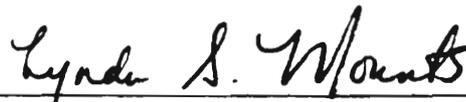
Date



William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20036  
(202) 523-4143

6/14/78

Date



Ronald D. Eastman  
Lynda S. Mounts  
Counsel for the Committee for  
Jimmy Carter



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

June 21, 1978

William T. Lake, Esquire  
Wilmer, Cutler & Pickering  
1666 K Street, N.W.  
Washington, D.C. 20006

Re: MUR 442 (77)

Dear Mr. Lake:

The Commission, on June 14, 1978, agreed to accept the conciliation agreement that you have signed. Enclosed please find two copies of the agreement signed by me for your records.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "William C. Oldaker".

William C. Oldaker  
General Counsel

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William T. Lake, Esquire  
Wilmer, Cutler & Pickering  
1666 K Street, N.W.  
Washington, D.C. 20006

Re: MUR 442 (77)

Dear Mr. Lake:

The Commission, on June 14, 1978, agreed to accept the conciliation agreement that you have signed. Enclosed please find two copies of the agreement signed by me for your records.

Sincerely yours,

William C. Oldaker  
General Counsel

6/20  
RB

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MUR 410

PS Form 3811, Apr. 1977  
RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3.  
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).  
 Show to whom and date delivered \_\_\_\_\_ \$  
 Show to whom, date, and address of delivery \_\_\_\_\_ \$  
 RESTRICTED DELIVERY  
 Show to whom and date delivered \_\_\_\_\_ \$  
 RESTRICTED DELIVERY.  
 Show to whom, date, and address of delivery \$ \_\_\_\_\_  
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
 William T. Lake, Esquire  
 1666 K St., N.W.  
 Wash., D.C. 20006

3. ARTICLE DESCRIPTION:  
 REGISTERED NO. CERTIFIED NO. INSURED NO.

(Always obtain signature of addressee or agent)

I have received the article described above.  
 SIGNATURE  Addressee  Authorized agent

4. DATE OF DELIVERY POSTMARK  
 6/21/77 11:40 AM

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 442 (77)  
The National Bank of Georgia )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that The National Bank of Georgia violated the provisions of 2 U.S.C. Sect. 441b;

NOW, THEREFORE, the Federal Election Commission and The National Bank of Georgia having duly entered into conciliation as provided for in 2 U.S.C. Sect. 437g(a)(5) do hereby agree as follows:

- I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.
- II. The National Bank of Georgia has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Solely for the purposes of this proceeding, the respondent admits:
  - A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.

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- B. During the primary campaign, staff of the Committee for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by The National Bank of Georgia, and during the election campaign, a Bank officer arranged for use of this plane by two officials of the Democratic National Committee.
- C. Expenses related to the use of the NBG aircraft by candidate Carter were not billed to the Committee until August 22, 1977, and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.
- D. The flights provided by The National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for officials of the Democratic National Committee took place on September 5, 1976.
1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stop-overs in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
  2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia and Dalton, Georgia.
  3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia and Americus, Georgia.

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4. The June 13, 1976 flight departed from Americus, Georgia and then landed in Brunswick, Georgia, and Atlanta, Georgia.

5. The September 5, 1976 flight departed from Atlanta, Georgia, and landed in Warm Springs, Georgia.

- IV. The Federal Election Campaign Act of 1971, as amended ("FECA"), prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.
- V. The failure of The National Bank of Georgia until August 1977 to bill the Committee for use of The National Bank of Georgia's plane constituted its contribution of in-kind services to the Committee, in violation of 2 U.S.C. Sect. 441b.
- VI. The National Bank of Georgia will pay to the Treasury of the United States a civil penalty in the amount of Five Thousand Dollars (\$5,000).
- VII. Should The National Bank of Georgia ever allow its aircraft to be used for campaign-related travel, it shall do so only in accordance with the Federal Election Campaign Act, as amended, and any regulations of the Federal Election Commission then validly in effect.
- VIII. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.
- This agreement shall not be construed as an admission by the National Bank of Georgia that it has knowingly and willfully violated any provision of law.

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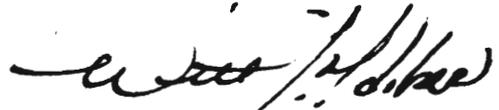
GENERAL CONDITIONS

- IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. Sect. 437g(a)(1) concerning the matters at issue in this Agreement, 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.
- X. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.
- XI. It is agreed that The National Bank of Georgia shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.
- XII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

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6/20/78

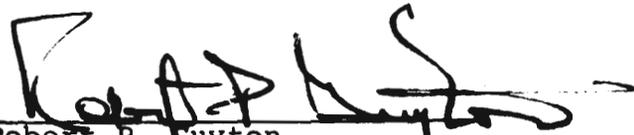
Date



William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N. W.  
Washington, D. C. 20463  
(202) 523-4143

6-9-78

Date



Robert P. Guyton  
President  
The National Bank of Georgia

73010352451

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Committee for Jimmy Carter ) MUR 442 (77)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on June 21, 1978, the Commission approved by a vote of 6-0 the recommendation in the memorandum from the General Counsel, dated June 16, 1978, to accept the signed conciliation agreement in the above-captioned matter.

Date: 6/21/78

Marjorie W. Emmons  
Marjorie W. Emmons  
Secretary to the Commission

Received in Office of Commission Secretary: 6-16-78, 3:13  
Circulated on 48 hour vote basis: 6-19-78, 2:00

7301005:155

June 16, 1978

MEMORANDUM TO: Marge Emmons  
FROM: Elissa T. Carr  
SUBJECT: MUR 442

Please have the attached Memo and certification agt distributed to the Commission on a 48 hour tally basis.

Thank you.

78040052436



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

June 16, 1978

MEMORANDUM

TO: The Commission

FROM: William C. Oldaker *WCO*

RE: MUR 442 - Signed conciliation agreement

Attached is a conciliation agreement from the Committee for Jimmy Carter signed by its counsel. This agreement was approved by the Commission on June 14, 1978. We recommend its acceptance by the Commission.

Enclosure

730107

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 442 (77)  
Committee for Jimmy Carter )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the Committee for Jimmy Carter violated the provisions of 2 U.S.C. §441b;

NOW, THEREFORE, the Federal Election Commission and the Committee for Jimmy Carter having duly entered into conciliation as provided for in 2 U.S.C. §437g(a) (5), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.

II. The Committee for Jimmy Carter has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

A. Prior to the Democratic National Convention in July, 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.

B. During the primary campaign, staff of the Committee

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for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia, and during the election campaign, a bank officer arranged for use of this plane by two officials of the Democratic National Committee.

- 7 3 0 1 0 0 5 1 1 0 0
- C. Expenses related to the use of the National Bank of Georgia aircraft were not billed to the Committee until August 22, 1977, and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.
  - D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for officials of the Democratic National Committee took place on September 5, 1976.
    - 1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stop-overs in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
    - 2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia, and Dalton, Georgia.
    - 3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia, and Americus, Georgia.
    - 4. The June 13, 1976 flight departed from Americus, Georgia, and then landed in Brunswick, Georgia, and Atlanta, Georgia.
    - 5. The September 5, 1976 flight departed from Atlanta,

Georgia, and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended, ("FECA"), prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The failure of the Committee to pay for the use of the National Bank of Georgia's aircraft until August, 1977, constituted its receipt of in-kind contributions, in violation of 2 U.S.C. §441b.

VI. The Committee will pay to the Treasury of the United States a civil penalty in the amount of Twelve Hundred Dollars (\$1,200), the approximate market value of the flights in issue.

VII. The Committee agrees that in the future, it will compensate any corporations or national banks which rent aircraft for campaign related travel in accordance with the Federal Election Campaign Act and any valid regulations of the Federal Election Commission then in effect.

VIII. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

IX. This agreement shall not be construed as an admission by the respondent Committee that it has knowingly and willfully violated any provision of law.

7301011111





June 13, 1978

MEMORANDUM TO: Marge Emmons  
FROM: Elissa T. Carr  
SUBJECT: MUR 442

Please distribute the attached Conciliation Report on MUR 442 to the Commission for the Executive Session of June 14, 1978. It should be Item #A-1 on the agenda.

Thank you.

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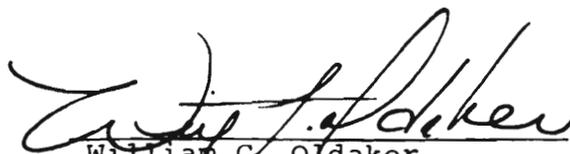
3. Paragraph VII - States that the Committee will, in connection with any future campaign-related use of a corporation's or national bank's aircraft, compensate such entity in compliance with the Act and any Commission regulations then validly in effect.

4. Paragraph IX - States that the Committee by signing this agreement does not admit that it has "knowingly and willfully" violated any provision of the Act.

RECOMMENDATION

Find reasonable cause to believe that the Committee for Jimmy Carter violated 2 U.S.C. §441b with respect to the Strauss/Kling flight of September 5, 1976, and approve the proposed conciliation agreement.

6/13/78  
Date

  
William C. Oldaker  
General Counsel

730100301115

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 442 (77)  
Committee for Jimmy Carter )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the Committee for Jimmy Carter violated the provisions of 2 U.S.C. §441b;

NOW, THEREFORE, the Federal Election Commission and the Committee for Jimmy Carter having duly entered into conciliation as provided for in 2 U.S.C. §437g(a) (5), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.

II. The Committee for Jimmy Carter has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

A. Prior to the Democratic National Convention in July, 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.

B. During the primary campaign, staff of the Committee

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for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia, and during the election campaign, a bank officer arranged for use of this plane by two officials of the Democratic National Committee.

- C. Expenses related to the use of the National Bank of Georgia aircraft were not billed to the Committee until August 22, 1977, and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.
- D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for officials of the Democratic National Committee took place on September 5, 1976.
1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stop-overs in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
  2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia, and Dalton, Georgia.
  3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia, and Americus, Georgia.
  4. The June 13, 1976 flight departed from Americus, Georgia, and then landed in Brunswick, Georgia, and Atlanta, Georgia.
  5. The September 5, 1976 flight departed from Atlanta,

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GENERAL CONDITIONS

X. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a) (1) concerning the matters at issue in this Agreement, 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.

XI. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

XII. It is agreed that the Campaign Committee shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XIII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_   
Date

\_\_\_\_\_   
William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, DC 20036  
(202) 523-4143

\_\_\_\_\_   
Date

\_\_\_\_\_   
Ronald D. Eastman, Esquire  
Counsel for the Committee  
for Jimmy Carter

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
National Bank of Georgia }

MUR 442

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on June 14, 1978, the Commission determined by a vote of 4-0 to adopt the recommendation of the General Counsel to take the following actions in the above-captioned matter:

1. Find reasonable cause to believe that the National Bank of Georgia violated 2 U.S.C. Section 441b in connection with the Strauss/Kling flight.
2. Approve the proposed conciliation agreement attached to the General Counsel's Report signed June 12, 1978.

Commissioners Harris and Tiernan were not present at the time of the vote.

Attest:

6/14/78  
Date

Marjorie W. Emmons  
Marjorie W. Emmons  
Secretary to the Commission

73010057450





4. Paragraph VIII - The bank has added language which states that the bank, by signing this agreement, does not admit that it has knowingly and willfully violated any provisions of the Act.

On June 12, 1978, respondent bank sent us a check for the \$5,000 civil penalty and a signed copy of the agreement. (See attached)

6/12/78  
Date

  
William C. Oldaker  
General Counsel

78010153455

WILMER, CUTLER & PICKERING

1686 K STREET, N.W.

WASHINGTON, D. C. 20006

CABLE ADDRESS: WICRINO WASH., D. C.

INTERNATIONAL TELEX: 440-239

TELEX: 69-2402

TELEPHONE 202 872-6000

EUROPEAN OFFICE

5 CHEAPSIDE

LONDON, EC2V 6AA, ENGLAND

TELEPHONE 01 736-2401

TELEX: 851 893242

CABLE ADDRESS: WICRINO LONDON

June 12, 1978

LLOYD M. CUTLER  
JOHN H. PICKERING  
HUGH R. H. SMITH  
J. ROGER WOLLENBERG  
CHARLES C. GLOFFER, III  
MARSHALL HORNBIOWER  
HENRY T. RATHBUN  
REUBEN CLARK  
SAMUEL J. LANAHAN  
A. A. SOMMER, JR.  
WILLIAM R. PERLIN  
SAMUEL A. STERN  
ARNOLD M. LERMAN  
ROBERT P. STRANAHAN, JR.  
MAX D. TRUETT, JR.  
JOEL ROSENBLUM  
HOWARD P. WILLIAMS  
ANDREW T. A. MACDONALD  
ROBERT A. HAMMOND, III  
DANIEL A. MATERS  
TIMOTHY B. DYK  
DAVID R. ANDERSON  
J. RODERICK HELLER, III  
ARTHUR F. MATHEWS

JAMES S. CAMPBELL  
DENNIS W. FLANNERY  
JAMES ROBERTSON  
RAYMUND C. CLEVINGER, III  
LOUIS R. COHEN  
MICHAEL R. KLEIN  
STEPHEN A. WEISSASSER  
TIMOTHY N. BLACK  
SALLY KATZEN  
F. DAVID LARE, JR.  
PAUL J. MODE, JR.  
STEPHEN F. BLACK  
C. BOYDEN GRAY  
RONALD J. GREENE  
JAY F. LAPIN  
GARY D. WILSON  
C. LORING JETTON, JR.  
WILLIAM T. LARE  
MICHAEL L. BURACK  
MICHAEL S. HELFER  
NEIL J. KING  
ROBERT B. MCCAW  
A. DOUGLAS MELAMED

BARBARA E. BERGMAN  
SUSAN LOW BLOCH  
STEWART A. BLOCH  
ALAN N. BRAVERMAN  
LYNN BREGMAN  
DANIEL L. BRENNER  
RICHARD G. BURT  
RICHARD W. CASS  
JOHN F. COONEY  
MICHELE B. CORASH  
MARY CAROLYN COX  
PATRICIA D. DOUGLASS  
STEPHEN P. DOYLE  
JAMES R. FARLAND  
NANCY C. GARRISON  
MARK L. GERCHICK  
CORNELIUS J. GOLDEN, JR.  
EDWARD T. HAND  
ALLEN H. HARRISON, JR.  
JOHN H. HARWOOD, II  
A. STEPHEN HUT, JR.  
DAVID R. JOHNSON  
JAMES T. KILBRETH, III  
PAUL S. KOFFSAY  
WILLIAM J. KOLASKY, JR.

LARIJACE S. KOVACIC  
VICTOR E. LAND  
DONALD C. LANGEVOORT  
BERNARD J. LAPORTE  
CHRISTOPHER R. LIPSETT  
ROBERT A. MAJOR, JR.  
BRUCE MAKHOV  
MAURY J. MECHANICK  
LOWELL B. MILLER  
WILLIAM J. PERLSTEIN  
PHILIP L. RADOFF  
WILLIAM R. RICHARDSON, JR.  
RENÉ TOWNSEND ROBINSON  
JOHN ROUNSAVILLE, JR.  
MICHAEL S. SCHOOLER  
GAIL F. SCHULZ  
KAREN ROSE SCHWARTZ  
ARTHUR B. SPITZER  
ALAN B. STERNSTEIN  
ARTHUR M. WEISBURD  
CAROL DRESCHER WEISMAN  
ALEXANDER F. WILES  
ANN D. WILLIAMS  
ROBERT G. WILSON  
ROGER N. WITTEN

EZEPH G. STOODARD  
ARTHUR Z. GARDINER, JR.  
COUNSEL

William C. Oldaker, Esq.  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: In the Matter of the National  
Bank of Georgia  
MUR 442(77)

Dear Mr. Oldaker:

On behalf of the National Bank of Georgia ("the Bank"), we enclose a proposed final conciliation agreement in the above matter, which has been executed on behalf of the Bank. Also enclosed is a check in the amount of \$5,000 in payment of the penalty described in paragraph VI of the agreement.

The enclosed agreement is basically similar to the Commission's proposed agreement that was attached to your letter to me of March 9, 1978. Minor factual corrections have been made, and we have clarified that the facts admitted are admitted only for purposes of this proceeding.

We have also changed paragraph VII to state that the Bank will, in connection with any future campaign-related use of its aircraft, comply with the FECA and any FEC regulations then validly in effect. We believe this



**National  
Bank of  
Georgia**

The National Bank of Georgia  
34 Peachtree Street, N.W.  
Atlanta, Georgia 30301

119385

64-14  
610

DATE 6-9-78

PAY

5000

\$5,000.00 DOLLARS

**THE FEDERAL RESERVE BANK  
ATLANTA, GEORGIA**

TO  
THE  
ORDER  
OF

\*\*\* Treasury of the United States \*\*\*

*Keneth L. Craven*

AUTHORIZED SIGNATURE

⑈ 119385 ⑈ ⑆ 0610 ⑆ 0014 ⑆ ⑈ 76100025 ⑈

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 442 (77)  
The National Bank of Georgia )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that The National Bank of Georgia violated the provisions of 2 U.S.C. Sect. 441b;

NOW, THEREFORE, the Federal Election Commission and The National Bank of Georgia having duly entered into conciliation as provided for in 2 U.S.C. Sect. 437g(a)(5) do hereby agree as follows:

- I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.
- II. The National Bank of Georgia has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. Solely for the purposes of this proceeding, the respondent admits:
  - A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.

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4. The June 13, 1976 flight departed from Americus, Georgia and then landed in Brunswick, Georgia, and Atlanta, Georgia.

5. The September 5, 1976 flight departed from Atlanta, Georgia, and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended ("FECA"), prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The failure of The National Bank of Georgia until August 1977 to bill the Committee for use of The National Bank of Georgia's plane constituted its contribution of in-kind services to the Committee, in violation of 2 U.S.C. Sect. 441b.

VI. The National Bank of Georgia will pay to the Treasury of the United States a civil penalty in the amount of Five Thousand Dollars (\$5,000).

VII. Should The National Bank of Georgia ever allow its aircraft to be used for campaign-related travel, it shall do so only in accordance with the Federal Election Campaign Act, as amended, and any regulations of the Federal Election Commission then validly in effect.

VIII. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

This agreement shall not be construed as an admission by the National Bank of Georgia that it has knowingly and willfully violated any provision of law.

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GENERAL CONDITIONS

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- IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. Sect. 437g(a)(1) concerning the matters at issue in this Agreement, 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.
- X. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.
- XI. It is agreed that The National Bank of Georgia shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.
- XII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

73710052451

\_\_\_\_\_  
Date

\_\_\_\_\_  
William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N. W.  
Washington, D. C. 20463  
(202) 523-4143

6-9-78  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Robert P. Guyton  
President  
The National Bank of Georgia

MOR 4/2  
Doc 3796  
MOR

*Cadwalader, Wickersham & Taft*

ONE WALL STREET  
NEW YORK, N. Y. 10005  
TELEPHONE: (212) 785-1000  
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*Eleven Dupont Circle*

*Washington, D. C. 20036*

*Telephone: (202) 387-8100*

*Two: 710-822-1934*

June 14, 1978

William C. Oldaker  
General Counsel  
General Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20036

Dear Mr. Oldaker:

Pursuant to our understanding of the Commission's action on June 14, 1978, we are sending a signed conciliation agreement for the Commission's acceptance.

Sincerely,

*Lynda S. Mounts*

Lynda S. Mounts

LSM:jf  
Enclosure

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7 8 0 4 0 7 5 2 4 6 3

*Cadwalader, Wickersham & Taft*

*Eleven Dupont Circle, Washington, D. C. 20036*

---

William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20036

BY HAND - ATTENTION: LEWIS SCALL 4<sup>TH</sup> FLOOR

Doc 3764  
NRN

*Cadwalader, Wickersham & Taft*

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JOHN J. WALSH  
MALCOLM P. WATTMAN  
ARNOLD J. ZURCHER, JR.

June 12, 1978

William C. Oldaker, Esq.  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D. C. 20463

RE: MUR 442 (77)

Dear Mr. Oldaker:

On behalf of the Committee for Jimmy Carter,  
we are enclosing a proposed conciliation agreement in  
the above referenced matter.

Sincerely,

*Lynda S. Mounts*

Ronald D. Eastman  
Lynda S. Mounts

Enclosure

79010072151

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 442 (77)  
Committee for Jimmy Carter )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the Committee for Jimmy Carter violated the provisions of 2 U.S.C. §441b;

NOW, THEREFORE, the Federal Election Commission and the Committee for Jimmy Carter having duly entered into conciliation as provided for in 2 U.S.C. §437g(a) (5), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.

II. The Committee for Jimmy Carter has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

A. Prior to the Democratic National Convention in July, 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.

B. During the primary campaign, staff of the Committee

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for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia, and during the election campaign, a bank officer arranged for use of this plane by two officials of the Democratic National Committee.

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- C. Expenses related to the use of the National Bank of Georgia aircraft were not billed to the Committee until August 22, 1977, and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.
  - D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for officials of the Democratic National Committee took place on September 5, 1976.
    - 1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stop-overs in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
    - 2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia, and Dalton, Georgia.
    - 3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia, and Americus, Georgia.
    - 4. The June 13, 1976 flight departed from Americus, Georgia, and then landed in Brunswick, Georgia, and Atlanta, Georgia.
    - 5. The September 5, 1976 flight departed from Atlanta,



GENERAL CONDITIONS

X. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a) (1) concerning the matters at issue in this Agreement, 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.

XI. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

XII. It is agreed that the Campaign Committee shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XIII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_   
Date

\_\_\_\_\_  
William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, DC 20036  
(202) 523-4143

\_\_\_\_\_   
Date

\_\_\_\_\_  
Ronald D. Eastman, Esquire  
Counsel for the Committee  
for Jimmy Carter

7904003143

73040052469

*Cadwalader, Wickersham & Taft*  
*Eleven Dupont Circle, Washington, D. C. 20036*

---

William C. Oldaker, Esq.  
General Counsel  
FEDERAL ELECTION COMMISSION  
1325 "K" Street, N.W.  
Washington, D. C. 20463

By Hand  
Attention: Lester Scall  
4<sup>th</sup> Floor

ACC 3759  
NRW

WILMER, CUTLER & PICKERING  
1666 K STREET, N. W.

WASHINGTON, D. C. 20006

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TELEX: 89-2402  
TELEPHONE 202 872-6000

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TELEPHONE 01-236-2401  
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CABLE ADDRESS: WICRING LONDON

June 12, 1978

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COUNSEL

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1325 K Street, N.W.  
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Re: In the Matter of the National  
Bank of Georgia  
MUR 442(77)

Dear Mr. Oldaker:

On behalf of the National Bank of Georgia ("the Bank"), we enclose a proposed final conciliation agreement in the above matter, which has been executed on behalf of the Bank. Also enclosed is a check in the amount of \$5,000 in payment of the penalty described in paragraph VI of the agreement.

The enclosed agreement is basically similar to the Commission's proposed agreement that was attached to your letter to me of March 9, 1978. Minor factual corrections have been made, and we have clarified that the facts admitted are admitted only for purposes of this proceeding.

We have also changed paragraph VII to state that the Bank will, in connection with any future campaign-related use of its aircraft, comply with the FECA and any FEC regulations then validly in effect. We believe this

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language is more appropriate than the Commission's proposed language paraphrasing the existing regulation on the use of corporate aircraft. The existing regulation was not in effect at the time of the flights involved here. Moreover, the regulation may be changed from time to time in the future. Indeed, the Commission has recently proposed such a change. See 43 Fed. Reg. 14673 (April 7, 1978). Therefore, it seems appropriate that the agreement require compliance with the FECA and whatever regulations are effective on the date of any future use of the aircraft.

Finally, we have added in paragraph VIII a statement that the agreement shall not be construed as an admission by the Bank of a knowing and willful violation of law.

The Bank wishes to conclude this matter as promptly as possible. We submit this proposed agreement in the hope and expectation that it will be acted on by the Commission at its meeting on Wednesday, June 14. Should the Commission's consideration of the matter be delayed beyond that date, the Bank may deem it necessary to reconsider its position, and it expressly reserves the right to do so. We request that you present the enclosed agreement to the Commission for its consideration at the June 14 meeting.

Sincerely,

*William T. Lake*

William T. Lake  
Patricia D. Douglass

Enclosures

7901000121

7 3 0 4 0 0 5 2 1 1

**National  
Bank of  
Georgia**

The National Bank of Georgia  
34 Peachtree Street, N.W.  
Atlanta, Georgia 30301

119385

64-14  
610

DATE 6-9-78

PAY

119385000000

\$5,000.00 DOLLARS

THE FEDERAL RESERVE BANK  
ATLANTA, GEORGIA

TO  
THE  
ORDER  
OF

\*\*\* Treasury of the United States \*\*\*

*Kenneth L. Crater*

AUTHORIZED SIGNATURE

⑈ 119385 ⑈ ⑆ 0610 ⑈ 0014 ⑆ ⑈ 76100025 ⑈

79040051175

*From: W. Lake*  
WILMER, CUTLER & PICKERING  
1666 K STREET, N. W.  
WASHINGTON, D. C. 20006

*Robert Beggs Esq.*  
~~William C. Oldaker, Esq.~~  
General Counsel: *CRS - 446-9600*  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D. C. 20463

By Hand

Doc 3757  
NRH

WILMER, CUTLER & PICKERING

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CABLE ADDRESS: WICRING LONDON

June 9, 1978

LLOYD N. CUTLER  
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COUNSEL

William C. Oldaker, Esq.  
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Federal Election Commission  
1325 K Street, N.W.  
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Re: In the Matter of the National  
Bank of Georgia  
MUR 442(77)

Dear Mr. Oldaker:

On behalf of the National Bank of Georgia ("the Bank"), we enclose a proposed final conciliation agreement in the above matter, which has been executed on behalf of the Bank. Also enclosed is a check in the amount of \$5,000 in payment of the penalty described in paragraph VI of the agreement.

The enclosed agreement is basically similar to the Commission's proposed agreement that was attached to your letter to me of March 9, 1978. Minor factual corrections have been made, and we have clarified that the facts admitted are admitted only for purposes of this proceeding.

We have also changed paragraph VII to state that the Bank will, in connection with any future campaign-related use of its aircraft, comply with the FECA and any FEC regulations then validly in effect. We believe this

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language is more appropriate than the Commission's proposed language paraphrasing the existing regulation on the use of corporate aircraft. The existing regulation was not in effect at the time of the flights involved here. Moreover, the regulation may be changed from time to time in the future. Indeed, the Commission has recently proposed such a change. See 43 Fed. Reg. 14673 (April 7, 1978). Therefore, it seems appropriate that the agreement require compliance with the FECA and whatever regulations are effective on the date of any future use of the aircraft.

The Bank wishes to conclude this matter as promptly as possible. We submit this proposed agreement in the hope and expectation that it will be acted on by the Commission at its meeting on Wednesday, June 14. Should the Commission's consideration of the matter be delayed beyond that date, the Bank may deem it necessary to reconsider its position, and it expressly reserves the right to do so. We request that you present the enclosed agreement to the Commission for its consideration at the June 14 meeting.

Sincerely,

*William T. Lake*

William T. Lake  
Patricia D. Douglass

Enclosure

730107:175

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 442 (77)  
The National Bank of Georgia )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the National Bank of Georgia violated the provisions of 2 U.S.C. § 441b;

NOW, THEREFORE, the Federal Election Commission and the National Bank of Georgia having duly entered into conciliation as provided for in 2 U.S.C. § 437g(a)(5), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.

II. The National Bank of Georgia has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. The respondent solely for the purposes of this proceeding admits:

A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.

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- B. During the primary campaign, staff of the Committee for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia, and during the election campaign, a Bank officer arranged for use of this plane by two officials of the Democratic National Committee.
  - C. Expenses related to the use of the NBG aircraft by candidate Carter were not billed to the Committee until August 22, 1977, and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.
  - D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for officials of the Democratic National Committee took place on September 5, 1976.
    - 1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stopovers in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.

2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia, and Dalton, Georgia.
3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia, and Americus, Georgia.
4. The June 13, 1976 flight departed from Americus, Georgia, and then landed in Brunswick, Georgia, and Atlanta, Georgia.
5. The September 5, 1976 flight departed from Atlanta, Georgia, and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended ("FECA"), prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The failure of the National Bank of Georgia until August 1977 to bill the Committee for use of the National Bank of Georgia's plane constituted its contribution of in-kind services to the Committee, in violation of 2 U.S.C. § 441b.

VI. The National Bank of Georgia will pay to the Treasury of the United States a civil penalty in the amount of Five Thousand Dollars (\$5,000).

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VII. Should the National Bank of Georgia ever allow its aircraft to be used for campaign-related travel, it shall do so only in accordance with the Federal Election Campaign Act, as amended, and any regulations of the Federal Election Commission then validly in effect.

VIII. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement. This agreement shall not be construed as an admission by the National Bank of Georgia that it has knowingly and willfully violated any provision of law.

GENERAL CONDITIONS

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue in this Agreement, 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.

X. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

XI. It is agreed that the National Bank of Georgia shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement

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the requirements contained in this Agreement and to so notify the Commission.

XII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463  
(202) 523-4143

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert P. Guyton  
President  
The National Bank of Georgia

73040051130

7 8 0 1 0 0 5 2 1 3 1

From: W. Lake

WILMER, CUTLER & PICKERING

1666 K STREET, N. W.

WASHINGTON, D. C. 20006

Lester Seiff

~~William C. Oldaker~~, Esq.

General Counsel's Office

Federal Election Commission

1325 K Street, N.W. - 4th Floor

Washington, D.C. 20463

By Hand

BEFORE THE FEDERAL ELECTION COMMISSION  
May 30, 1978

In the Matter of )  
 ) MUR 442 (77)  
Committee for Jimmy Carter )  
National Bank of Georgia )

GENERAL COUNSEL'S REPORT

On March 7, 1978, the Commission authorized proposed agreements in this matter for both respondents. After a series of negotiations, revised agreements have been prepared which both respondents and the General Counsel propose for acceptance by the Commission. The proposals are attached with changes from the Commission's original proposals underlined and language deleted from the original appearing in the margin at the appropriate locations. The salient points concerning these revised proposals are as follows:

The agreements retain admissions of violations and provide for payments of civil penalties, although in lesser amounts. The National Bank of Georgia (NBG) would pay \$2,400 and the Carter Committee would pay \$1,035. (See Paragraphs V and VI in both agreements). These lesser penalties are consistent with the other revised provisions of the agreements, as discussed below.

The agreements contain statements concerning the efforts made by each respondent to avoid having these flights given free of charge. (See Paragraph III C, D, E - Carter Committee; III B, C - NBG). This is consistent with the letters submitted by respondents in response to the reason to believe notifications and we have no evidence that the procedures were anything but as described by respondents.

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The agreements contain provisions stating that respondents have not knowingly or willfully violated the Act. (See Paragraph XI - Carter Committee; VIII - NBG). In view of the circumstances of this matter, and consistent with other agreements approved by the Commission, we think this language is acceptable.

The agreements characterize the making and acceptance of the contributions as "inadvertent failures" (See Paragraph III E, V - Carter Committee; V - NBG). This is consistent with the evidence, and in the context of the agreement as a whole, we think the language is acceptable.

Other substantive changes involve the Strauss-Kling flight of September 5, 1976, which was part of the Commission's original proposal. On February 8, 1978, the Commission found reason to believe that both respondents violated §441b when Messrs. Strauss and Kling of the Democratic National Committee (DNC) flew on the NBG's plane to a kick-off dinner, sponsored by the Committee for Jimmy Carter in Warm Springs, Georgia. Both the Carter Committee and the NBG have stated that these two DNC officers had no official function at the dinner, that the Carter Committee and the DNC were separate entities, and that the September 5, 1976, flight was not arranged by the Carter Committee, but rather by the DNC officials themselves. Therefore, we have removed this flight from the Committee's agreement and we have added language to clarify the circumstances of this flight in the agreement with the Bank. (See Paragraph III F- Carter Committee; III C, D - NBG). Based on this information and in this situation, we think the Commission ought to accept respondents' explanation of this relationship between the DNC and the Carter Committee.

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RECOMMENDATION

Find no reasonable cause to believe that the Committee for Jimmy Carter violated 2 U.S.C. §441b for the September 5, 1976, flight. Find reasonable cause to believe that the National Bank of Georgia violated 2 U.S.C. §441b for the September 5, 1976, flight. Approve the attached revised conciliation agreements.

6/2/78  
Date

  
William C. Ordaker  
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
 ) MUR 442 (77)  
Committee for Jimmy Carter )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission (Commission) in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the Committee for Jimmy Carter (Committee) violated the provisions of 2 U.S.C. §441b (a):

NOW, THEREFORE, the Commission and the Committee having duly entered into conciliation as provided for in 2 U.S.C. §437g (a) (5), do hereby agree as follows:

- I. The Commission has jurisdiction over the parties and the subject matter of this proceeding.
- II. The Committee has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. The pertinent facts in this matter are as follows:
  - A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination and following the convention, Mr. Carter campaigned for the election.

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and during the election campaign, staff of the Committee arranged for use of this plane by campaign officials.

B. During the primary campaign, staff of the Committee arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia (NBG).\*

C. At the time arrangements were made for use of the aircraft, campaign staff personnel and an official of the Bank agreed to make arrangements to compensate the Bank for the use of the aircraft. Respondent has advised the Commission that this was consistent with normal campaign policy of meeting financial obligations as promptly as possible with strict adherence to the letter and spirit of the federal election laws.

D. Respondent has further advised the Commission that in order to insure to the extent practicable that the Committee would properly identify and record all in-kind contributions, the Committee's internal accounting staff, with the help of volunteers from a prominent national accounting firm, designed and instituted certain procedures and tests. The Committee hoped that these procedures and tests would facilitate the necessary reporting and enable the campaign to avoid or eliminate any corporate or excessive contributions. The accounting staff believed its procedures were the best possible to avoid any unrecorded and improperly unreimbursed in-kind services.

E. However, because of an inadvertent failure to follow up after initial arrangements for billing and payment had been made, expenses related to the use of the National

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Bank of Georgia aircraft were not billed until August 22, 1977. The committee did compensate the National Bank of Georgia as soon as the bill was received.

F. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976.\*

\*The flight provided for campaign officials took place on September 5, 1976.

1. The August 30, 1975 flight departed from Americus, Georgia with intermediate stopovers in Calhoun, Georgia; Cooperhill, Tennessee and Ellijay, Georgia. The final landing was at Brunswick, Georgia.

2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia and Dalton, Georgia.

3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia and Americus, Georgia.

4. The June 13, 1976 flight departed from Americus, Georgia and then landed in Brunswick, Georgia and Atlanta, Georgia.

\* 5. The September 5, 1976, flight departed from Atlanta, Georgia, and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended, (FECA), prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

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V. The inadvertent failure of the Committee to pay for the use of the NBC aircraft until August, 1977, constituted its receipt of an in-kind contribution in violation of 2 U.S.C. §441b(a).

VI. The Committee will pay to the Treasury of the United States a civil penalty in the amount of \$1,035.00\*, the approximate market value of the flights in issue.

\*1,200.

VII. The Committee agrees that in the future it will compensate any corporations or national banks which rent aircraft for campaign related travel in accordance with the Federal Election Campaign Act and any valid regulations of the Federal Election Commission then in effect. \*

\* Should President Carter again become a candidate subject to FECA, the Committee or its successor, shall not rent aircraft owned by a national bank or corporation for use in campaign-related travel without advancing funds to the owner at a rate not less than the usual charter rate or regular first class airfare (providing this is not prohibited by other Federal law), as per Commission regulation

VIII. This Conciliation Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

IX. This agreement shall in no manner be construed as an admission by respondent Committee that it has knowingly or willfully violated any provision of the federal election laws.

GENERAL CONDITIONS

X. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue in this Agreement, or on its own motion, may review compliance with this Agreement. If the Commission believes that this Agreement or any requirement thereof has been

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violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

XI. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

XII. It is agreed that the Campaign Committee shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XIII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
William C. Oldaker  
for the Federal Election  
Commission

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Ronald D. Eastman  
for the Committee for  
Jimmy Carter

73010051132

BEFORE THE FEDERAL ELECTION COMMISSION

May , 1978

In the Matter of )  
 ) MUR 442 (77)  
The National Bank of Georgia )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the National Bank of Georgia violated the provisions of 2 U.S.C. § 441b;

NOW, THEREFORE, the Federal Election Commission and the National Bank of Georgia having duly entered into conciliation as provided for in 2 U.S.C. § 437g(a)(5), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the National Bank of Georgia<sup>\*</sup> and the subject matter of this proceeding.

II. The National Bank of Georgia has cooperated fully with the Commission in its investigation of this matter, responding promptly and candidly to all requests for information, and has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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\*the parties

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

A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination, and following the convention Mr. Carter campaigned for the election.

B. During the primary campaign, staff of the Committee for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia.\* At the time arrangements were made for use of the aircraft, an official of the National Bank of Georgia and campaign staff personnel agreed to make arrangements to compensate the Bank for the use of the aircraft. However, because of an inadvertent failure to follow up after initial arrangements for billing and payment had been made, expenses related to the use of the NBG aircraft by candidate Carter were not billed to the Committee

until August 22, 1977, and out-of-pocket costs for the aircraft were paid by The Committee soon thereafter.

C. During the election campaign, a Bank officer arranged for the use of the same Bank airplane by two officials of the Democratic National

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\*; and during the election campaign, staff of the Committee arranged for use of this plane by campaign officials.

Expenses related to the use of the NBG aircraft were not billed to the Committee until August 22, 1977; and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.

Committee, who wished to attend a kick-off dinner sponsored by the 1976 Democratic Presidential Campaign Committee, Inc. Neither of the persons using the airplane had an official function at the kick-off dinner, nor was either of them an official or employee of the 1976 Democratic Presidential Campaign Committee, Inc. The Bank did not bill the Democratic National Committee or receive payment for the flight.\*

D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for <sup>\*</sup>officials of the Democratic National Committee took place on September 5, 1976.

1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stopovers in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia, and Dalton, Georgia.

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\* campaign officials

3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia, and Americus, Georgia.
4. The June 13, 1976 flight departed from Americus, Georgia, and then landed in Brunswick, Georgia, and Atlanta, Georgia.
5. The September 5, 1976 flight departed from Atlanta, Georgia, and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended, prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The inadvertent failure of the National Bank of Georgia promptly to bill the Committee and the Democratic National Committee for use of the National Bank of Georgia's plane constituted contributions of in-kind services to the Committee and to the Democratic National Committee, and resulted in violation of 2 U.S.C. § 441b.

VI. The National Bank of Georgia will pay to the Treasury of the United States a civil penalty in the amount of Two Thousand Four Hundred Dollars (\$2,400).

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\* Five Thousand Dollar (\$5,000).



XII. It is agreed that the National Bank of Georgia shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XIII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463  
(202) 523-4143

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert P. Guyton  
President  
The National Bank of Georgia

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NRH

*Cadwalader, Wickersham & Taft*

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*Washington, D.C. 20036*

*Telephone: (202) 387-8100*

*Telex: 710-822-1934*

May 17, 1978

WASHINGTON PARTNERS  
H. CLAYTON COOK, JR.  
H. LAWRENCE FOX  
ROBERT T. LASKY  
THOMAS A. RUSSO  
STEPHEN N. SHULMAN  
FRANK WILLE

NEW YORK PARTNERS  
RICHARD A. ABORN  
JACK ADELMAN  
STEPHEN G. AUSTIN  
JOHN BOYER  
PETER MEGARGEE BROWN  
WILLIAM N. CLARKE  
RODNEY S. DAYAN  
DANIEL C. DRAPER  
STEVE C. DUNE  
DAVID W. FEENEY  
P. JAY FLOCKEN  
JOHN F. FRITTS  
TERENCE F. GILHEANY  
STEPHEN P. GOTTLIEB  
GRANT B. HERING  
LEONARD E. KUST  
ROBERT C. LAWRENCE III  
JAY H. MCDOWELL  
WILLIAM J. MOSS  
HORACE P. MOULTON  
JOHN J. O'GRADY III  
ROY ALBERT POVELL  
GEORGE D. REYCRAFT  
HADLEY S. ROE  
HAVEN C. ROOSEVELT  
STUART D. ROOT  
STEVEN A. RUSKIN  
JEROME SHELBY  
GERALD T. SLEVIN  
JOHN A. SULLIVAN  
JACQUELIN A. SWORDS  
RICHARD T. TAYLOR  
COURTLAND W. TROUTMAN  
JONATHAN M. WAINWRIGHT  
JOHN J. WALSH  
MALCOLM P. WATTMAN  
ARNOLD J. ZURCHER, JR.

Mr. Robert Bogin  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 442 (77)

Dear Mr. Bogin:

On behalf of the Committee for Jimmy Carter we are enclosing a draft conciliation agreement in the above referenced matter. Based on our discussions with you, we understand that you will recommend acceptance of this agreement to the Federal Election Commission.

Sincerely,



Ronald D. Eastman  
Lynda S. Mounts

Enclosure

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
 ) MUR 442 (77)  
Committee for Jimmy Carter )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission (Commission) in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the Committee for Jimmy Carter (Committee) violated the provisions of 2 U.S.C. §441b (a):

NOW, THEREFORE, the Commission and the Committee having duly entered into conciliation as provided for in 2 U.S.C. §437g (a) (5), do hereby agree as follows:

- I. The Commission has jurisdiction over the parties and the subject matter of this proceeding.
- II. The Committee has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. The pertinent facts in this matter are as follows:
  - A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination and following the convention, Mr. Carter campaigned for the election.

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B. During the primary campaign, staff of the Committee arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia (NBG).

C. At the time arrangements were made for use of the aircraft, campaign staff personnel and an official of the Bank agreed to make arrangements to compensate the Bank for the use of the aircraft. Respondent has advised the Commission that this was consistent with normal campaign policy of meeting financial obligations as promptly as possible with strict adherence to the letter and spirit of the federal election laws.

D. Respondent has further advised the Commission that in order to insure to the extent practicable that the Committee would properly identify and record all in-kind contributions, the Committee's internal accounting staff, with the help of volunteers from a prominent national accounting firm, designed and instituted certain procedures and tests. The Committee hoped that these procedures and tests would facilitate the necessary reporting and enable the campaign to avoid or eliminate any corporate or excessive contributions. The accounting staff believed its procedures were the best possible to avoid any unrecorded and improperly unreimbursed in-kind services.

E. However, because of an inadvertent failure to follow up after initial arrangements for billing and payment had been made, expenses related to the use of the National

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V. The inadvertent failure of the Committee to pay for the use of the NBC aircraft until August, 1977, constituted its receipt of an in-kind contribution in violation of 2 U.S.C. §442b(a).

VI. The Committee will pay to the Treasury of the United States a civil penalty in the amount of \$1,035.00, the approximate market value of the flights in issue.

VII. The Committee agrees that in the future it will compensate any corporations or national banks which rent aircraft for campaign related travel in accordance with the Federal Election Campaign Act and any valid regulations of the Federal Election Commission then in effect.

VIII. This Conciliation Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

IX. This agreement shall in no manner be construed as an admission by respondent Committee that it has knowingly or willfully violated any provision of the federal election laws.

#### GENERAL CONDITIONS

X. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue in this Agreement, or on its own motion, may review compliance with this Agreement. If the Commission believes that this Agreement or any requirement thereof has been

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violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

XI. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

XII. It is agreed that the Campaign Committee shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XIII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
William C. Oldaker  
for the Federal Election  
Commission

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Ronald D. Eastman  
for the Committee for  
Jimmy Carter

73040051501

7 8 0 4 0 0 5 2 5 0 2

*Cadwalader, Wickersham & Taft*  
*Eleven Dupont Circle, Washington, D. C. 20036*

---

Mr. Robert Bogin  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

4th Floor

200 3542  
WRL

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May 12, 1978

LLOYD N. CUTLER  
JOHN H. PICKERING  
HUGH R. H. SMITH  
J. ROGER WOLLENBERG  
CHARLES C. GLOVER, III  
MARSHALL HORNBLOWER  
HENRY T. RATHBUN  
REUBEN CLARK  
SAMUEL J. LANAHAN  
A. A. SOMMER, JR.  
WILLIAM R. PERLIK  
SAMUEL A. STERN  
ARNOLD M. LERMAN  
ROBERT P. STRANAHAN, JR.  
MAK O. TRUITT, JR.  
JOEL ROSENBLUM  
HOWARD P. WILLEMS  
ANDREW T. A. MACDONALD  
ROBERT A. HAMMOND, III  
DANIEL K. MAYERS  
TIMOTHY B. DYK  
DAVID R. ANDERSON  
J. RODERICK HELLER, III  
ARTHUR F. MATHEWS  
JAMES S. CAMPBELL  
DENNIS M. FLANNERY  
JAMES ROBERTSON  
RAYMOND C. CLEVELAND, III  
LOUIS R. COHEN  
MICHAEL R. KLEIN  
STEPHEN A. WEISSWASSER  
TIMOTHY N. BLACK  
SALLY RATZEN  
F. DAVID LAKE, JR.  
PAUL J. MOORE, JR.  
STEPHEN F. BLACK  
C. BOYDEN GRAY  
RONALD J. GREENE  
JAY F. LAPIN  
GARY D. WILSON  
C. LORING JETTON, JR.  
WILLIAM T. LAKE  
MICHAEL L. BURACK  
MICHAEL S. HELFER  
NEIL J. KING  
ROBERT B. MCCAW  
A. DOUGLAS MELAMED

BARBARA E. BERGHAN  
SUSAN LOW BLOCH  
STEWART A. BLOCK  
ALAN N. BRAVERMAN  
LYNN BREGMAN  
DANIEL L. BRENNER  
RICHARD G. BURT  
RICHARD W. CASS  
JOHN F. COONEY  
MICHELE B. CORASH  
MARY CAROLYN COX  
PATRICIA D. DOUGLASS  
STEPHEN P. DOYLE  
JAMES R. FARRAND  
NANCY C. GARRISON  
MARR L. GERCHICK  
CORNELIUS J. GOLDEN, JR.  
EDWARD T. HAND  
ALLEN H. HARRISON, JR.  
JOHN H. HARWOOD II  
A. STEPHEN HUT, JR.  
DAVID R. JOHNSON  
JAMES T. KILBRETH, III  
PAUL S. KOFFSKY  
WILLIAM J. KOLASKY, JR.  
CANDACE S. KOVACIC  
VICKI E. LAND  
DONALD C. LANGEVOORT  
GERALD J. LAPORTE  
CHRISTOPHER R. LIPSETT  
ROBERT A. MAJOR, JR.  
BRUCE MAXIMOV  
MAURY J. MECHANICK  
WILLIAM J. MILLER  
WILLIAM J. PERLSTEIN  
PHILLIP L. RADOFF  
WILLIAM R. RICHARDSON, JR.  
RENÉ TOWNSEND ROBINSON  
JOHN ROUNSAVILLE, JR.  
MICHAEL S. SCHOOLER  
GAIL F. SCHULZ  
KAREN KOSEK SCHWARTZ  
ARTHUR B. SPITZER  
ALAN B. STERNSTEIN  
ARTHUR M. WEISBURD  
CAROL DRESCHER WEISMAN  
ALEXANDER F. WILES  
ANN O. WILLIAMS  
ROBERT G. WILSON  
ROGER M. WITTEN

EZERIEL G. STODDARD  
ARTHUR Z. GARDINER, JR.  
COUNSEL

Robert Bogin, Esquire  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: Conciliation Agreement  
MUR 442(77)

Dear Mr. Bogin:

We have communicated to the Board of Directors of the National Bank of Georgia your views with respect to the language of a Conciliation Agreement to be entered into by the National Bank of Georgia and the Commission in disposition of the pending matter.

The Board concluded, as we had anticipated, that it cannot accept your position that paragraph VIII of the Agreement be deleted. That paragraph states that the National Bank of Georgia does not admit that it has knowingly or willfully violated the law. The Bank believes that such a statement in the Agreement is essential in view of your insistence that the Agreement contain an admission of a violation. If a violation is to be admitted, it is obviously critical to limit the scope of the admission to precisely what is warranted by the facts.

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You have acknowledged that there is no evidence that the Bank's violation of law was anything but inadvertent. In such situations, the Commission has included in other Conciliation Agreements the identical language contained in paragraph VIII. The Bank believes that omission of such a paragraph in this instance would leave a misleading and potentially very harmful impression with its customers and the general public.

The Board has agreed, however, to accept the other suggestions you have made. Assuming that paragraph VIII is retained, the Bank will agree to pay a civil penalty of \$2400, which has been verified as approximately twice the charter rate for the flights in question.

We hope that you will agree to accept our views and present the enclosed draft to the Commission with your recommendation that it be accepted. If you decide not to follow this course, we nevertheless request that you present to the Commission the accompanying draft as the final settlement position of the National Bank of Georgia in this matter.

Sincerely,



William T. Lake  
Patricia D. Douglass

Enclosure

7 3 0 1 0 0 5 2 5 0 4

BEFORE THE FEDERAL ELECTION COMMISSION

May , 1978

In the Matter of )  
 ) MUR 442 (77)  
The National Bank of Georgia )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the National Bank of Georgia violated the provisions of 2 U.S.C. § 441b;

NOW, THEREFORE, the Federal Election Commission and the National Bank of Georgia having duly entered into conciliation as provided for in 2 U.S.C. § 437g(a)(5), do hereby agree as follows:

- I. The Federal Election Commission has jurisdiction over the National Bank of Georgia and the subject matter of this proceeding.
- II. The National Bank of Georgia has cooperated fully with the Commission in its investigation of this matter, responding promptly and candidly to all requests for information, and has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

- A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination, and following the convention Mr. Carter campaigned for the election.
- B. During the primary campaign, staff of the Committee for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia. At the time arrangements were made for use of the aircraft, an official of the National Bank of Georgia and campaign staff personnel agreed to make arrangements to compensate the Bank for the use of the aircraft. However, because of an inadvertent failure to follow up after initial arrangements for billing and payment had been made, expenses related to the use of the NBG aircraft by candidate Carter were not billed to the Committee until August 22, 1977.
- C. During the election campaign, a Bank officer arranged for the use of the same Bank airplane by two officials of the Democratic National

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Committee, who wished to attend a kick-off dinner sponsored by the 1976 Democratic Presidential Campaign Committee, Inc.

Neither of the persons using the airplane had an official function at the kick-off dinner, nor was either of them an official or employee of the 1976 Democratic Presidential Campaign Committee, Inc. The Bank did not bill the Democratic National Committee or receive payment for the flight.

D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for officials of the Democratic National Committee took place on September 5, 1976.

1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stopovers in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia, and Dalton, Georgia.

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3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia, and Americus, Georgia.
4. The June 13, 1976 flight departed from Americus, Georgia, and then landed in Brunswick, Georgia, and Atlanta, Georgia.
5. The September 5, 1976 flight departed from Atlanta, Georgia, and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended, prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The inadvertent failure of the National Bank of Georgia promptly to bill the Committee and the Democratic National Committee for use of the National Bank of Georgia's plane constituted contributions of in-kind services to the Committee and to the Democratic National Committee, and resulted in violation of 2 U.S.C. § 441b.

VI. The National Bank of Georgia will pay to the Treasury of the United States a civil penalty in the amount of Two Thousand Four Hundred Dollars (\$2,400).

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VII. Should the National Bank of Georgia ever allow its aircraft to be used for campaign-related travel, it shall do so only in accordance with the Federal Election Campaign Act, as amended, and any valid regulations of the Federal Election Commission then in effect.

VIII. This agreement shall in no manner be construed as an admission by the National Bank of Georgia that it has knowingly or willfully violated any provision of law.

IX. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

GENERAL CONDITIONS

X. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue in this Agreement, 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 Northern District of Georgia.

XI. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

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XII. It is agreed that the National Bank of Georgia shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XIII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463  
(202) 523-4143

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert P. Guyton  
President  
The National Bank of Georgia

73040052510

7 3 0 4 0 0 5 2 5 1 1

*From:*

WILMER. CUTLER & PICKERING

1666 K STREET. N. W.

WASHINGTON. D. C. 20006

Robert Bogin, Esquire  
Office of General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

DUPLICATE

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JOHN L. RICHARDSON  
RONALD D. EASTMAN  
MARK J. ANDREWS  
HENRY GOLDBERG  
FRITZ R. KAHN  
STUART F. PIERSON  
MICHAEL F. GOLDMAN  
HOWELL E. BEGLE, JR.

MAILING ADDRESS  
VERLIP  
(202) 452-7400

April 24, 1978

RECEIVED  
FEDERAL ELECTION COMMISSION  
78 APR 24 12:09  
78 APR 24  
JOHN A. MERRIGAN  
THOMAS E. ACEY, JR.  
JOSEPH L. MANSON, III  
ROBERT BRINKER  
LYNDA L. MOUNTS  
RUSSELL E. POMER  
JEFFREY D. KOMAROW  
THOMAS J. KELLER  
BARBARA DAVIS  
ANN K. H. SIMON  
VICTOR S. ELGORT  
RICHARD L. LYS  
W. CLARK M. FADDEN  
EDWARD A. HERRY

MERRITT RUDLEN  
WHITNEY GILLILLAND  
OF COUNSEL

By Hand

802111

44-3836

Robert Bogin, Esq.  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, Northwest  
Washington, D. C. 20463

Re: In The Matter of Committee For  
Jimmy Carter -- MUR 442 (77)

Dear Mr. Bogin:

On behalf of the Committee For Jimmy Carter (Committee) we are enclosing our revised draft of the conciliation agreement proposed by you in the above matter.

Our proposed changes are noted below:

1. On Page 1, introductory paragraph and Page 3, Paragraph V, we have added subsection (a) to specify the relevant provision of the Act.
2. Page 2, Paragraph III, B: To the best of our knowledge the September 5, 1976 flight carrying the two DNC officials, Messrs. Strauss and Kling, was arranged between an official of the National Bank of Georgia and the officials themselves. It is our position that this flight should not be included in this conciliation agreement.
3. Page 2, Paragraph III, C and D: We have added these two sections, which state additional pertinent facts.
4. Page 3, Paragraph III, E: We have added language to Paragraph III, C of your proposal to reflect additional pertinent facts.
5. Page 3, Paragraph III, F: Paragraph D of your proposal is corrected to reflect the fact that a flight took place on October 17, 1975 rather than October 10, 1975.

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Robert Bogin, Esq.  
Page Two  
April 24, 1978

6. Paragraph F.1: We have corrected the spelling of Copperhill, Tennessee.

7. Paragraph F.2: We have corrected the date of the October 17, 1975 flight.

8. Paragraph F.3: We have corrected the route of the flight, which originated in Atlanta rather than Americus, Georgia.

9. Paragraph F.4: We have corrected the route to include a stop in Brunswick, Georgia.

10. Page 3, Paragraph V: We propose this language instead of your proposal in Paragraph V.

11. Page 4, Paragraph VI: This is a revision of proposed Paragraph VII.

12. Page 4, Paragraph VIII: We have added this provision.

13. We have deleted your proposed Paragraph VI concerning a civil penalty.

We would like to meet with you as soon as it is convenient in order to discuss our proposal.

Sincerely,

*Lynda S. Mounts*

Lynda S. Mounts

LSM/bj1  
Enclosure

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RECEIVED  
FEDERAL ELECTION  
COMMISSION

BEFORE THE FEDERAL ELECTION COMMISSION

78 APR 24 P12:09

In the Matter of )  
 )  
 )  
Committee for Jimmy Carter )

MUR 442 (77)

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission (Commission) in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the Committee for Jimmy Carter (Committee) violated the provisions of 2 U.S.C. §441b (a):

NOW, THEREFORE, the Commission and the Committee having duly entered into conciliation as provided for in 2 U.S.C. §437g (a) (5), do hereby agree as follows:

I. The Commission has jurisdiction over the parties and the subject matter of this proceeding.

II. The Committee has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination and following the convention, Mr. Carter campaigned for the election.

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B. During the primary campaign, staff of the Committee arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia (NBG).

C. At the time arrangements were made for use of the aircraft, campaign staff personnel and an official of the Bank agreed to make arrangements to compensate the Bank for the use of the aircraft. Respondent has advised the Commission that this was consistent with normal campaign policy of meeting financial obligations as promptly as possible with strict adherence to the letter and spirit of the federal election laws.

D. Respondent has further advised the Commission that in order to insure to the extent practicable that the Committee would properly identify and record all in-kind contributions, the Committee's internal accounting staff, with the help of volunteers from a prominent national accounting firm, designed and instituted certain procedures and tests. The Committee hoped that these procedures and tests would facilitate the necessary reporting and enable the campaign to avoid or eliminate any corporate or excessive contributions. The accounting staff believed its procedures were the best possible to avoid any unrecorded and improperly unreimbursed in-kind services.

E. However, because of an inadvertent failure to follow up after initial arrangements for billing and payment had been made, expenses related to the use of the National Bank of Georgia aircraft were not billed until August 22, 1977. The Committee did compensate the National Bank of Georgia as soon as the bill was received.

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F. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976.

1. The August 30, 1975 flight departed from Americus, Georgia with intermediate stopovers in Calhoun, Georgia; Copperhill, Tennessee and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia and Dalton, Georgia.
3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia and Americus, Georgia.
4. The June 13, 1976 flight departed from Americus, Georgia and then landed in Brunswick, Georgia and Atlanta, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended, ("FECA"), prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The Commission takes the view that the delay in payment for use of the aircraft where the unpaid obligation was not discovered by the Committee itself despite efforts to account for all obligations constitutes receipt of an in-kind contribution in violation of 2 U.S.C. §441b (a).

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VI. The Committee agrees that in the future it will compensate any corporations or national banks which rent aircraft for campaign related travel in accordance with the Federal Election Campaign Act and any valid regulations of the Federal Election Commission then in effect.

VII. This Conciliation Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

VIII. This agreement shall in no manner be construed as an admission by respondent Committee that it has knowingly or willfully violated any provision of the federal election laws.

GENERAL CONDITIONS

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g (a)(1) concerning the matters at issue in this Agreement, 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.

X. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

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XI. It is agreed that the Campaign Committee shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
William C. Oldaker  
for the Federal Election Commission

\_\_\_\_\_  
DATE

\_\_\_\_\_  
Ronald D. Eastman  
for the Committee for Jimmy Carter

78040054510

LAW OFFICES

VERNER, LIIPFERT, BERNHARD AND MCPHERSON

SUITE 1000

1660 L STREET N W

WASHINGTON, D. C. 20036

By Hand

Robert Bogin, Esq.  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, Northwest  
Washington, D. C. 20463

18 APR 24 P12:09

RECEIVED  
FEDERAL ELECTION  
COMMISSION

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

April 11, 1978

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS

*mwe*

SUBJECT: Interim Conciliation Report - MUR 442 (77)

Signed by General Counsel:  
4-7-78

Received in Office of  
Commission Secretary:  
4-7-78, 1:06

The above-mentioned document was circulated to the Commissioners on a 24 hour no-objection basis at 4:30 p.m., April 7, 1978.

As of 9:00 a.m., this date, no objections have been received in the Office of Commission Secretary to the Interim Conciliation Report.

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April 7, 1978

MEMORANDUM TO: Marge Emmons  
FROM: Elissa T. Garr  
SUBJECT: MUR 442

Please have the attached Interim Conciliation Report on MUR 442 distributed to the Commission on a 24 hour no-objection basis.

Thank you.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
	)	MUR 442 (77)
National Bank of Georgia	)	
Jimmy Carter Committee	)	

INTERIM CONCILIATION REPORT

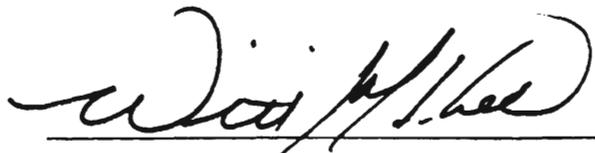
On March 13, 1978, Respondents received notification of The Commission's finding of reasonable cause to believe, and proposed conciliation agreements.

On March 29, 1978, we met with the attorney for the National Bank of Georgia, and on March 31, 1978 we met with the attorney for the Carter Committee. Both attorneys advised us of their wish to submit alternative conciliation agreements within a week.

Upon receipt and consideration of respondents' proposed agreements, we will present them to the Commission along with whatever recommendations may be appropriate.

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4/7/78  
 \_\_\_\_\_  
 Date

  
 \_\_\_\_\_  
 William C. Oldaker  
 General Counsel

7-10 31/75  
NRW

WILMER, CUTLER & PICKERING

1666 K STREET, N. W.

WASHINGTON, D. C. 20006

CABLE ADDRESS: WICRING WASH., D. C.

INTERNATIONAL TELEX: 440-239

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EUROPEAN OFFICE

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TELEPHONE 01-236-2401

TELEX: 651 663242

CABLE ADDRESS: WICRING LONDON

April 6, 1978

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JOHN H. PICKERING  
HUGH R. H. SMITH  
J. ROGER WOLLENBERG  
CHARLES C. GLOVER, III  
MARSHALL HORNBLOWER  
HENRY T. RATHBUN  
REUBEN CLARR  
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MAX O. TRUITT, JR.  
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HOWARD P. WILLENS  
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F. DAVID LAKE, JR.  
PAUL J. MORDE, JR.  
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PATRICIA D. DOUGLASS  
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MARR L. GERRICK  
CORNELIUS J. GOLDEN, JR.  
EDWARD T. HAND  
ALLEN H. HARRISON, JR.  
JOHN H. HARWOOD II  
A. STEPHEN HUT, JR.  
DAVID R. JOHNSON  
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PAUL S. KOFFSKY  
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CANDACE S. KOVACIC  
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MAURY J. MECHANICK  
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PHILLIP L. RADOFF  
WILLIAM R. RICHARDSON, JR.  
RENE TOWNSEND ROBINSON  
JOHN ROUNSAVILLE, JR.  
MICHAEL S. SCHOOLES  
GAIL F. SCHULZ  
KAREN ROSE SCHWARTZ  
ARTHUR B. SPITZER  
ALAN B. STERNSTEIN  
ARTHUR M. WEISBURD  
CAROL DRESCHER WEISMAN  
ALEXANDER F. WILES  
ANN D. WILLIAMS  
ROBERT G. WILSON  
ROGER M. WITTEN

EZEKIEL G. STODDARD  
ARTHUR I. GARDINER, JR.  
COUNSEL

73040762521

Robert Bogin, Esquire  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: In the Matter of The National Bank of Georgia  
MUR 442(77)

Dear Mr. Bogin:

On behalf of The National Bank of Georgia ("the Bank"), and subject to the approval of the Bank's Board of Directors, we enclose herewith our revised draft of the conciliation agreement proposed by you in the above matter.

As we have informed you and Mr. Lester Scall at our meeting of March 29, 1978, the Bank is now content to include in its proposed conciliation agreement the flight of the Bank's airplane from Atlanta to Warm Springs, Georgia, on September 5, 1976, without need to submit further factual information as we had anticipated in our letter to you of March 20, 1978. We have, however, modified your draft of the agreement to conform to the facts of that flight as we understand them.

We offer the following comments with respect to our proposed changes, most of which were discussed with you and Mr. Scall on March 29. Page references are to the revised draft.

1. Page 1, paragraph I. We have changed "the parties" to "The National Bank of Georgia," the sole respondent in this matter.

2. Page 1, paragraph II. We have added language setting forth the Bank's cooperation with the Commission's investigation. Such language has been approved in conciliation agreements. See, e.g., In the Matter of the Okonite Company, MUR 200(76) and 213(76).

3. Page 2, paragraphs III-B and III-D. As we discussed with you on March 29, the September 5, 1976 flight transported Messrs. Strauss and Kling to a kick-off dinner sponsored by the 1976 Democratic Presidential Campaign Committee, Inc.; as best the Bank can determine, these men were invited to ride the Bank's plane by Mr. Lance. Although these gentlemen were officials of the Democratic National Committee, neither was an official of or employed by the 1976 Democratic Presidential Campaign Committee, Inc., and neither had an official function at the kick-off dinner at Warm Springs. Both men wished to attend the Warm Springs dinner as spectators. The Bank has, however, elected not to contest inclusion of that flight in the Agreement, but has changed the language of paragraphs III-B and III-D to reflect its understanding of the relevant facts.

4. Page 2, paragraph III-C. The only flights billed for in August of 1977 were those taken by candidate Carter. We have corrected the paragraph accordingly. The Bank was not aware until recently of the Commission's concern with the Warm Springs flight. If the Commission so desires, the Bank will seek to obtain reimbursement also for that flight. The Bank's charge for that flight, calculated on the same basis as the charges for the other flights, would be \$52.50.

5. Page 2, paragraph III-D. The Carter flight occurred on October 17, 1975, rather than October 10, 1975, and we have changed paragraphs III-D and III-D-2 accordingly.

6. Page 3, paragraph III-D-1. We have corrected the spelling of Copperhill, Tennessee.

7. Page 3, paragraph III-D-3. We have corrected the route of the flight, which originated in Atlanta, rather than Americus, Georgia.

8. Page 3, paragraph III-D-4. We have corrected the route to include a stop in Brunswick, Georgia.

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9. Page 4, paragraph V. As described in our letter to Mr. Scall of October 19, 1977, the failure of the Bank to bill the Committee for Mr. Carter's use of the NBG airplane was purely a matter of inadvertence. While Mr. Lance, the bank officer who had knowledge of the Carter use of the Bank's plane, and a "staff person" of the campaign committee discussed payment to the Bank, through inadvertence neither of those persons followed through. In the case of the Warm Springs flight, apparently Mr. Lance was unaware of the possible sensitivity of the flight and, as far as the Bank can determine, no campaign committee personnel were involved.

In this situation, although the Bank is willing to enter into a conciliation agreement to correct what may have been an inadvertent violation in the failure to bill promptly for these flights, it believes that no purpose would be served by the Commission's requiring it to admit a violation of the Federal Election Campaign Act.

Numerous federal agencies enforce federal laws through settlement agreements in which the defendant is not required to admit a violation of law. For example, both the Securities and Exchange Commission and the Department of Justice frequently enforce federal securities and antitrust laws by means of consent decrees filed in a federal district court in which no admission of violation is required. Other agencies, such as the Federal Trade Commission and the Consumer Product Safety Commission, often enter into consent orders or decrees at the administrative level without demanding that the charged party admit to a statutory violation. Numerous specific examples could be cited, but we understand that the Commission is already familiar with the established practice of other federal agencies in this regard. That established practice, on the part of many other agencies charged with the enforcement of federal law, makes clear that vigorous law enforcement need not involve exacting an admission of violation as the price of entering into a conciliation agreement. The Bank sees no reason why the Commission's practice in this regard should conflict with that of the other agencies.

Moreover, in enacting the conciliation procedure of Section 437g, Congress plainly did not intend to require coerced admissions of statutory violations. Instead, the measure was designed to encourage informal correction of violations of law without the delay and expense of resort to the judicial process. For example, the debate accompanying passage

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of the Federal Election Campaign Act Amendments of 1976 strongly suggests that the purpose of the conciliation procedure was not a punitive one, but was aimed at the informal and voluntary correction of unknowing, inadvertent, or technical violations of the complex new election laws.<sup>1/</sup> The entry of a conciliation agreement correcting such a violation, without requiring an admission of violation, would fully satisfy the Commission's interest in achieving future compliance with the law.

In light of the absence of any suggestion that the Bank's failure to obtain prompt payment was anything but an inadvertent, good-faith error, the pattern set by other federal enforcement agencies, and the intent of Congress in enacting the conciliation procedure, the Bank believes that paragraph V should be deleted. If it is retained, it should state no more than that the Bank's failure to obtain prompt payment was an inadvertent violation of 2 U.S.C. § 441b. We have revised paragraph V to be so limited.

Paragraph V has also been amended accurately to describe the Warm Springs flight as well as the earlier Carter flight.

10. Page 4, paragraph VI. The Bank believes that since there is no evidence or suggestion of a willful violation or bad faith on its part and since the amount of in-kind services which were tardily billed amounts to less than \$900, the proposed fine of \$5,000 is grossly excessive. In similar instances of good-faith violation, the Commission has required only a nominal fine. See, for example, The Briggs for Congress Committee, et al., MUR 244(76) (\$250 per respondent); Shapp Matching Funds, MUR 256(76) (\$25-\$750 per respondent); The Okonite Company, MUR 200(76), and MUR 213(76) (\$500); First National Bank, Valparaiso, Indiana, MUR 431(77) (\$200); First National Bank & Trust Co. of Kearny, New Jersey, MUR 428(77) (\$500); The Loose Group, MUR 403(77) (\$500). As far as we can determine, the fines in these instances seem to be less than, or no more than, the amounts of the violations. Accordingly, we have inserted a proposed fine of \$250. Certainly, in this case the fine should not exceed the amount of the violation. Such an exaction would be an unwarranted punitive measure in the case of an inadvertent violation that occurred in the first Presidential election to which the complex new federal restrictions applied.

---

<sup>1/</sup> See, e.g., the remarks of Representatives Hays and Rostenkowski, 122 Cong. Rec. H2532, H2542 (daily ed. March 30, 1976).

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11. Page 4, paragraph VII. As we discussed with you and Mr. Scall on March 29, the regulation with respect to advance payment by a candidate for use of the Bank's plane was not in effect at the time of the flights complained of. For this reason, and because the validity of the present regulation has not been tested, the Bank believes it should be required to agree merely that any future political use of an airplane owned by the Bank will be in compliance with the Federal Election Campaign Act and all existing valid regulations of the Commission.

12. Page 4, paragraph VIII. The Bank has added language expressly disclaiming any admission of a willful or knowing violation of law. Such a disclaimer has been approved in other agreements. See The Briggs for Congress Committee, et al., MUR 244(76); Albert Hazewinkel, t/a Flor-L-Pot, MUR 262(76).

13. Page 5, paragraph X. We have changed the venue for any civil enforcement action of the Commission from the District of Columbia to the Northern District of Georgia. The Bank does no business in the District of Columbia.

We would appreciate your forwarding the enclosed draft to the Commission for its approval or extending the conciliatory process at least until we have had an opportunity to meet to discuss the draft.

Sincerely,

*William T. Lake*

William T. Lake  
Patricia D. Douglass

Enclosure

73040052527

BEFORE THE FEDERAL ELECTION COMMISSION

April , 1978

In the Matter of )  
The National Bank of Georgia ) MUR 442 (77)

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the National Bank of Georgia violated the provisions of 2 U.S.C. § 441b;

NOW, THEREFORE, the Federal Election Commission and the National Bank of Georgia having duly entered into conciliation as provided for in 2 U.S.C. § 437g(a)(5), do hereby agree as follows:

- I. The Federal Election Commission has jurisdiction over the National Bank of Georgia and the subject matter of this proceeding.
- II. The National Bank of Georgia has cooperated fully with the Commission in its investigation of this matter, responding promptly and candidly to all requests for information, and has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

- 7 3 0 4 0 7 5 2 5 2 2 9
- A. Prior to the Democratic National Convention in July 1976, Jimmy Carter campaigned for the presidential nomination, and following the convention Mr. Carter campaigned for the election.
  - B. During the primary campaign, staff of the Committee for Jimmy Carter (the Committee) arranged for the use by candidate Carter of an airplane owned by the National Bank of Georgia, and during the election campaign, a Bank officer arranged for use of this plane by officials of the Democratic National Committee.
  - C. Expenses related to the use of the NBG aircraft by candidate Carter were not billed to the Committee until August 22, 1977; and out-of-pocket costs for the aircraft, in the total sum of \$808.65, were paid by the Committee soon thereafter.
  - D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 17, 1975; December 29, 1975; and June 13, 1976. The flight provided for officials of the

Democratic National Committee took place on September 5, 1976.

1. The August 30, 1975 flight departed from Americus, Georgia, with intermediate stopovers in Calhoun, Georgia, Copperhill, Tennessee, and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
2. The October 17, 1975 flight was a round-trip between Atlanta, Georgia, and Dalton, Georgia.
3. The December 29, 1975 flight was a round-trip between Atlanta, Georgia, and Americus, Georgia.
4. The June 13, 1976 flight departed from Americus, Georgia, and then landed in Brunswick, Georgia, and Atlanta, Georgia.
5. The September 5, 1976 flight departed from Atlanta, Georgia, and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended, prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

73040052510

V. The failure of the National Bank of Georgia promptly to bill the Committee for use of the National Bank of Georgia's plane constituted an inadvertent contribution of in-kind services to the Committee, and resulted in an inadvertent violation of 2 U.S.C. § 441b.

VI. The National Bank of Georgia will pay to the Treasury of the United States a civil penalty in the amount of Two Hundred and Fifty Dollars (\$250).

VII. Should the National Bank of Georgia ever allow its aircraft to be used for campaign-related travel, it shall only do so in accordance with the Federal Election Campaign Act, as amended, and any valid regulations of the Federal Election Commission then in effect.

VIII. This agreement shall in no manner be construed as an admission by the National Bank of Georgia that it has knowingly or willfully violated any provision of law.

IX. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

GENERAL CONDITIONS

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

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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 Northern District of Georgia.

XI. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

XII. It is agreed that the National Bank of Georgia shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XIII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463  
(202) 523-4143

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert P. Guyton  
President  
The National Bank of Georgia

78740052332

7 8 0 4 0 7 5 2 5 3 3

*From:*

WILMER. CUTLER & PICKERING

1666 K STREET, N. W.

WASHINGTON, D. C. 20006

Robert Bogin, Esq.  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

BY HAND

FEDERAL ELECTION

73 APR 6 P 5: 32

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FIRST CLASS MAIL

*From:*

WILMER, CUTLER & PICKERING  
1666 K STREET, N. W.  
WASHINGTON, D. C. 20006

Robert Boqin, Esq.  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

WILMER, CUTLER & PICKERING  
1666 K STREET, N. W.

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ARTHUR H. WEISBURD  
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ALAN S. WEITZ  
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ANN O. WILLIAMS  
ROBERT G. WILSON  
ROGER M. WITTEN

EZEKIEL G. STODDARD  
ARTHUR Z. GARDINER, JR.  
COUNSEL

March 20, 1978

Robert Bogin, Esq.  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Re: MUR 442(77)

Dear Mr. Bogin:

On behalf of our client, the National Bank of Georgia ("NBG"), this is to confirm my telephone conversation with you today concerning Mr. Oldaker's letter to me dated March 9, 1978, which I received on March 13.

We would like to take the opportunity to submit information to the Commission to demonstrate that no action should be taken against NBG in connection with the September 5, 1976 flight of NBG's airplane from Atlanta to Warm Springs, Georgia. Because some of the information bearing on the legal status of that flight must be obtained from sources outside the Bank, we will be unable to make a submission by March 23. As I indicated, we will endeavor to have the materials to you by Wednesday, March 29.

Mr. Oldaker's letter enclosed a proposed conciliation agreement dealing with the Warm Springs flight as well as four other flights of NBG's airplane.

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However, we believe it will not be possible to discuss conciliation with respect to the Warm Springs flight until after the Commission has considered the materials we will submit and decided whether to take any further action with respect to that flight. Therefore, we propose to proceed with conciliation separately with respect to the four other flights referred to in the Commission's proposed draft. We will be submitting a response to you on that subject.

Sincerely,

*William T. Lake*

William T. Lake

73040032536





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

March 9, 1978

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ronald Eastman, Esquire  
Verner, Liipfert, Bernhard &  
McPherson  
Suite 1000  
1660 L Street, N.W.  
Washington, D.C. 20036

Re: MUR 442(77)

Dear Mr. Eastman:

On February 8, 1978, the Commission found reasonable cause to believe that the Committee for Jimmy Carter accepted contributions from a national bank in violation of 2 U.S.C. §441b. Specifically, four flights taken by Jimmy Carter on an aircraft owned by the National Bank of Georgia (NBG) constituted in-kind contributions, even though the bank was eventually repaid for the flights. The Commission did not find reasonable cause to believe that there was a violation of 2 U.S.C. §441b with respect to the flight of June 19, 1976.

The Commission has a duty to correct such violations for a period of 30 days by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. §437g(a)(5)(A). Towards this end, I am enclosing a proposed conciliation agreement which the Commission would accept in settlement of this matter.

In addition to the above findings, the Commission found reason to believe that the Committee for Jimmy Carter accepted a contribution from the NBG with respect to the September 5, 1976 flight of the NBG plane from Atlanta to Warm Springs, Georgia. This flight, which carried Robert Strauss and Lee Kling of the Democratic National Committee, is also a violation of 2 U.S.C. §441b as an in-kind contribution from the NBG.



Under the Federal Election Campaign Act, the Committee has the opportunity to demonstrate that no action should be taken against it. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate statements should be submitted under oath.

In order that the Commission may promptly resolve this matter, the Committee's response should be submitted within ten days of the receipt of this notification. This matter will remain confidential in accordance with 2 U.S.C. §437g (a)(3) unless the Commission receives written authorization to make the investigation public.

To assist in resolving this matter expeditiously, we have incorporated the September 5, 1976 flight into the proposed conciliation agreement so that once your response is received we may deal with these matters together.

Please note that the Commission has determined that a civil penalty of \$1,200 should be made part of the agreement.

In order that this matter may be resolved through conciliation, please contact Robert Bogin, the staff attorney now assigned to this matter, (202) 523-1474, at your earliest convenience.

Sincerely yours,

William C. Oldaker  
General Counsel

*Bogin* *MUR-442 (77)*

● SENDER: Complete items 1., 2., and 3.  
Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):  
 Show to whom and date delivered  
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 Show to whom, date, and address of delivery \$  
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
*Ronald Eastman, Esquire*  
*Suite 1000*  
*1660 L Street, N.W.*  
*Wash., D.C. 20036*

3. ARTICLE DESCRIPTION:  
 REGISTERED NO. *438476* INSURED NO. \_\_\_\_\_  
 (Always obtain signature of addressee or agent)  
 I have received the article described above.  
 SIGNATURE  Addressee  Authorized agent  
*S. Hunt*

4. DATE OF DELIVERY *3/10/77* POSTMARK \_\_\_\_\_

5. ADDRESS (Complete only if requested)  
*1660 L St NW*

6. UNABLE TO DELIVER BECAUSE: \_\_\_\_\_ CLERK'S INITIALS \_\_\_\_\_

☆ GPO : 1977-O-234-337

BEFORE THE FEDERAL ELECTION COMMISSION  
February 28, 1978

In the Matter of )  
 ) MUR 442 (77)  
Committee for Jimmy Carter )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the Committee for Jimmy Carter violated the provisions of 2 U.S.C. §441b;

NOW, THEREFORE, the Federal Election Commission and the Committee for Jimmy Carter having duly entered into conciliation as provided for in 2 U.S.C. §437g(a)(5), do hereby agree as follows:

I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.

II. The Committee for Jimmy Carter has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

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

A. Prior to the Democratic National Convention in July, 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.

B. During the primary campaign, staff of the Committee for Jimmy Carter (the Committee) arranged for the

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use by candidate Carter of an airplane owned by the National Bank of Georgia, and during the election campaign, staff of the Committee arranged for use of this plane by campaign officials.

- C. Expenses related to the use of the National Bank of Georgia aircraft were not billed to the Committee until August 22, 1977, and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.
- D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 10, 1975; December 29, 1975; and June 13, 1976. The flight provided for campaign officials took place on September 5, 1976.
1. The August 30, 1975 flight departed from Americus, Georgia with intermediate stopovers in Calhoun, Georgia, Copper Hill, Tennessee and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
  2. The October 19, 1975 flight was a round-trip between Atlanta, Georgia and Dalton, Georgia.
  3. The December 29, 1975 flight was a round-trip between Americus, Georgia and Atlanta, Georgia.
  4. The June 13, 1976 flight departed from Americus, Georgia and landed in Atlanta, Georgia.
  5. The September 5, 1976 flight departed from Atlanta, Georgia and landed in Warm Springs, Georgia.

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IV. The Federal Election Campaign Act of 1971, as amended, ("FECA"), prohibits contributions to Federal candidates from corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The failure of the Committee to pay for the use of the National Bank of Georgia's aircraft until August, 1977, constituted its receipt of in-kind contributions, in violation of 2 U.S.C. §441b.

VI. The Committee will pay to the Treasury of the United States a civil penalty in the amount of Twelve Hundred Dollars (\$1,200).

VII. Should President Carter again become a candidate subject to FECA, the Committee or its successor, shall not rent aircraft owned by a national bank or corporation for use in campaign-related travel without advancing funds to the owner at a rate not less than the usual charter rate or regular first class airfare (providing this is not prohibited by other Federal law), as per Commission Regulation.

VIII. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

GENERAL CONDITIONS

IX. The Commission, on request of anyone filing a complaint under 2 U.S.C. §437g(a)(1) concerning the matters at issue in this Agreement, 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

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

March 9, 1978

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

William T. Lake, Esquire  
Wilmer, Cutler & Pickering  
1666 K Street, N.W.  
Washington, D.C. 20006

Re: MUR 442(77)

Dear Mr. Lake:

On February 8, 1978, the Commission found reasonable cause to believe that the National Bank of Georgia (NBG) made contributions to the Committee for Jimmy Carter in violation of 2 U.S.C. §441b. Specifically, four flights taken by Jimmy Carter on an aircraft owned by the NBG constituted in-kind contributions, even though the bank was eventually repaid for the flights. The Commission did not find reasonable cause to believe that there was a violation of 2 U.S.C. §441b with respect to the flight of June 19, 1976.

The Commission has a duty to correct such violations for a period of 30 days by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. §437g(a)(5)(A). Towards this end, I am enclosing a proposed conciliation agreement which the Commission would accept in settlement of this matter.

In addition to the above findings, the Commission found reason to believe that the NBG made a contribution to the Committee for Jimmy Carter with respect to the September 5, 1976 flight of the NBG plane from Atlanta to Warm Springs, Georgia. This flight, which carried Robert Strauss and Lee Kling of the Democratic National Committee, is also a violation of 2 U.S.C. §441b as an in-kind contribution to the Committee for Jimmy Carter.



Under the Federal Election Campaign Act, the NBG has the opportunity to demonstrate that no action should be taken against it. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate statements should be submitted under oath.

In order that the Commission may promptly resolve this matter, the response of NBG should be submitted within ten days of the receipt of this notification. This matter will remain confidential in accordance with 2 U.S.C. §437g(a) (3) unless the Commission receives written authorization to make the investigation public.

To assist in resolving this matter expeditiously, we have incorporated the September 5, 1976 flight into the proposed conciliation agreement so that once your response is received we may deal with these matters together.

Please note that the Commission has determined that a civil penalty of \$5,000 should be made part of the agreement.

In order that this matter may be resolved through conciliation, please contact Robert Bogin, the staff attorney now assigned to this matter, (202) 523-1474, at your earliest convenience.

Sincerely yours,

William C. Oldaker  
General Counsel

*Bogin* *MUR-442 (77)*

● SENDER Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one):  
 Show to whom and date delivered  
 Show to whom, date, and address of delivery  
 RESTRICTED DELIVERY  
 Show to whom and date delivered.  
 RESTRICTED DELIVERY.  
 Show to whom, date, and address of delivery. \$  
 (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:  
*William T. Lake, Esquire  
 Wilmer, Cutler, & Pickering  
 1666 K Street, N.W.  
 Wash., D.C. 20006*

3. ARTICLE DESCRIPTION: REGISTERED NO. CERTIFIED NO. INSURED NO.  
*438477*

(Always obtain signature of addressee or agent)  
 I have received the article described above.  
 SIGNATURE  Addressee  Authorized agent  
*W.C. Oldaker*

4. DATE OF DELIVERY POSTMARK  
*3-13-78*

5. ADDRESS (Complete only if requested):  
*127C  
 1666-K St NW 20006*

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS

PS Form 3811, Apr. 1977 RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL ☆ GPO : 1977-O-234-337

BEFORE THE FEDERAL ELECTION COMMISSION  
February 28, 1978

In the Matter of )  
 ) MUR 442 (77)  
The National Bank of Georgia )

CONCILIATION AGREEMENT

This matter having been initiated by the Federal Election Commission in the normal course of carrying out its supervisory responsibilities, and an investigation having been conducted and reasonable cause to believe having been found that the National Bank of Georgia violated the provisions of 2 U.S.C. §441b;

NOW, THEREFORE, the Federal Election Commission and the National Bank of Georgia having duly entered into conciliation as provided for in 2 U.S.C. §437g(a)(5), do hereby agree as follows:

- I. The Federal Election Commission has jurisdiction over the parties and the subject matter of this proceeding.
- II. The National Bank of Georgia has had a reasonable opportunity to demonstrate that no action should be taken in this matter.
- III. The pertinent facts in this matter are as follows:
  - A. Prior to the Democratic National Convention in July, 1976, Jimmy Carter campaigned for the presidential nomination and following the convention Mr. Carter campaigned for the election.
  - B. During the primary campaign, staff of the Committee for Jimmy Carter (the Committee) arranged for the

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use by candidate Carter of an airplane owned by the National Bank of Georgia, and during the election campaign, staff of the Committee arranged for use of this plane by campaign officials.

- C. Expenses related to the use of the NBG aircraft were not billed to the Committee until August 22, 1977, and out-of-pocket costs for the aircraft were paid by the Committee soon thereafter.
- D. The flights provided by the National Bank of Georgia for Jimmy Carter took place on the following dates: August 30, 1975; October 10, 1975; December 29, 1975; and June 13, 1976. The flight provided for campaign officials took place on September 5, 1976.
  - 1. The August 30, 1975 flight departed from Americus, Georgia with intermediate stopovers in Calhoun, Georgia, Copper Hill, Tennessee and Ellijay, Georgia. The final landing was at Brunswick, Georgia.
  - 2. The October 19, 1975 flight was a round-trip between Atlanta, Georgia and Dalton, Georgia.
  - 3. The December 29, 1975 flight was a round-trip between Americus, Georgia and Atlanta, Georgia.
  - 4. The June 13, 1976 flight departed from Americus, Georgia and landed in Atlanta, Georgia.
  - 5. The September 5, 1976 flight departed from Atlanta, Georgia and landed in Warm Springs, Georgia.

IV. The Federal Election Campaign Act of 1971, as amended, ("FECA"), prohibits contributions to Federal candidates from

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corporations and national banks and requires that a corporation or a national bank charge a reasonable amount for the use of its property by a campaign committee.

V. The failure of the National Bank of Georgia until August, 1977 to bill the Committee for use of the National Bank of Georgia's plane, constituted its contribution of in-kind services to the Committee, in violation of 2 U.S.C. §441b.

VI. The National Bank of Georgia will pay to the Treasury of the United States a civil penalty in the amount of Five Thousand Dollars (\$5,000).

VII. Should the National Bank of Georgia ever allow its aircraft to be used for campaign-related travel it shall only do so by first receiving advance funds for its use at a rate not less than the usual charter rate or regular first class airfare, as per Commission Regulation.

VIII. This conciliation agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matters set forth in this agreement.

GENERAL CONDITIONS

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

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X. It is mutually agreed that this Agreement shall become effective as of the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

XI. It is agreed that the National Bank of Georgia shall have no more than sixty (60) days from the date this Agreement becomes effective to comply and implement the requirements contained in this Agreement and to so notify the Commission.

XII. This Agreement is executed in full satisfaction of all issues raised in this compliance action.

\_\_\_\_\_  
Date

\_\_\_\_\_  
William C. Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463  
(202) 523-4143

\_\_\_\_\_  
Date

\_\_\_\_\_  
William T. Lake, Esquire  
Wilmer, Cutler & Pickering  
1616 K Street, N.W.  
Washington, D.C. 20006  
Counsel for the National Bank  
of Georgia

78040052511

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Committee for Jimmy Carter )  
National Bank of Georgia )

MUR 442 (77)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on March 7, 1978, the Commission approved the proposed changes in the notification letters to Mr. Lake and Mr. Eastman, and the proposed changes in the conciliation agreement for the National Bank of Georgia in the above-captioned matter.

*Marjorie W. Emmons*

Marjorie W. Emmons  
Secretary to the Commission

Date: March 7, 1978

Report from the Office of the General Counsel dated:  
Received in the Office of the Commission Secretary:  
Circulated to the Commissioners:  
Method of Circulation:

March 3, 1978  
March 6, 1978 at 9:30 a.m.  
March 6, 1978 at 11:00 a.m.  
24-hour no-objection basis

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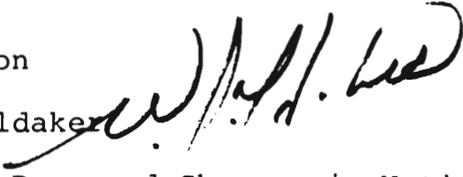
## FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

March 3, 1978

### MEMORANDUM

TO: The Commission

FROM: William C. Oldaker 

SUBJECT: MUR 442(77): Proposed Changes in Notification Letters and Conciliation Agreement

It is proposed that the following changes be made:

1. In the conciliation agreement for the National Bank of Georgia, page 3, paragraph VII, will read:

" Should the National Bank of Georgia ever allow its aircraft to be used for campaign-related travel it shall only do so by first receiving advance funds for its use at a rate not less than the usual charter rate or regular first class airfare, as per Commission Regulation."

2. In the notification letters to Mr. Lake and Mr. Eastman page 2, paragraph 4 the word "fine" is to be taken out, and the words "civil penalty" are to be added.





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

March 3, 1978

MEMORANDUM TO: CHARLES STEELE  
FROM: MARJORIE W. EMMONS *MWE*  
SUBJECT: OBJECTION to MUR 442(77)

Commissioner Aikens was advised that new papers were to be circulated by 4:00, this date, regarding MUR 442 (77).

Since this has not been accomplished, she is submitting an objection to the Memorandum dated March 2, 1978 circulated March 2, 1978 at 4:00 regarding MUR 442 (77), and it has been placed on the Executive Session Agenda for March 9, 1978.

730100:2552

March 2, 1978

MEMORANDUM TO: Marge Emmons  
FROM: Elissa T. Garr  
SUBJECT: MUR 442

Please have the attached Memo and conciliation agreements distributed to the Commission on a 24 hour no-objection basis.

Thank you.

78040052553



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

March 2, 1978

MEMORANDUM

TO: The Commission

FROM: William C. Oldaker *W.C. Oldaker*

SUBJECT: MUR 442(77): Proposed Notification Letters  
and Conciliation Agreement

On February 8, 1978, the Commission found reasonable cause to believe the Carter Committee and the National Bank of Georgia (NBG) violated §441b with regard to certain flights by candidate Carter on an NBG plane, and that there was reason to believe that both respondents violated §441b as to an additional flight.

Attached are proposed letters to both respondents advising them of these findings and proposed conciliation agreements. We have incorporated the newly considered flight into the agreements with the expectation that the agreements, if acceptable, could apply to all the flights.

For the NBG, we propose a fine of \$5,000 pursuant to section 437g(a)(6)(B)(i), and for the Carter Committee, we propose a fine of \$1,200, pursuant to section 437g(a)(6)(B)(ii). This fine is based on a market value for the flights which we attempted to compute. We determined this value to be approximately \$1,200.

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FEDERAL ELECTION COMMISSION

1125 K STREET N.W.  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

William T. Lake, Esquire  
Wilmer, Cutler & Pickering  
1666 K Street, N.W.  
Washington, D.C. 20006

Re: MUR 442(77)

Dear Mr. Lake:

On February 8, 1978, the Commission found reasonable cause to believe that the National Bank of Georgia (NBG) made contributions to the Committee for Jimmy Carter in violation of 2 U.S.C. §441b. Specifically, four flights taken by Jimmy Carter on an aircraft owned by the NBG constituted in-kind contributions, even though the bank was eventually repaid for the flights. The Commission did not find reasonable cause to believe that there was a violation of 2 U.S.C. §441b with respect to the flight of June 19, 1976.

The Commission has a duty to correct such violations for a period of 30 days by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. §437g(a)(5)(A). Towards this end, I am enclosing a proposed conciliation agreement which the Commission would accept in settlement of this matter.

In addition to the above findings, the Commission found reason to believe that the NBG made a contribution to the Committee for Jimmy Carter with respect to the September 5, 1976 flight of the NBG plane from Atlanta to Warm Springs, Georgia. This flight, which carried Robert Strauss and Lee Kling of the Democratic National Committee, is also a violation of 2 U.S.C. §441b as an in-kind contribution to the Committee for Jimmy Carter.



Under the Federal Election Campaign Act, the NBG has the opportunity to demonstrate that no action should be taken against it. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate statements should be submitted under oath.

In order that the Commission may promptly resolve this matter, the response of NBG should be submitted within ten days of the receipt of this notification. This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless the Commission receives written authorization to make the investigation public.

To assist in resolving this matter expeditiously, we have incorporated the September 5, 1976 flight into the proposed conciliation agreement so that once your response is received we may deal with these matters together.

Please note that the Commission has determined that a fine of \$5,000 should be made part of the agreement.

In order that this matter may be resolved through conciliation, please contact Robert Bogin, the staff attorney now assigned to this matter, (202) 523-1474, at your earliest convenience.

Sincerely yours,

William C. Oldaker  
General Counsel

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Ronald Eastman, Esquire  
Verner, Liipfert, Bernhard &  
McPherson  
Suite 1000  
1660 L Street, N.W.  
Washington, D.C. 20036

Re: MUR 442(77)

Dear Mr. Eastman:

On February 8, 1978, the Commission found reasonable cause to believe that the Committee for Jimmy Carter accepted contributions from a national bank in violation of 2 U.S.C. §441b. Specifically, four flights taken by Jimmy Carter on an aircraft owned by the National Bank of Georgia (NBG) constituted in-kind contributions, even though the bank was eventually repaid for the flights. The Commission did not find reasonable cause to believe that there was a violation of 2 U.S.C. §441b with respect to the flight of June 19, 1976.

The Commission has a duty to correct such violations for a period of 30 days by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. §437g(a)(5)(A). Towards this end, I am enclosing a proposed conciliation agreement which the Commission would accept in settlement of this matter.

In addition to the above findings, the Commission found reason to believe that the Committee for Jimmy Carter accepted a contribution from the NBG with respect to the September 5, 1976 flight of the NBG plane from Atlanta to Warm Springs, Georgia. This flight, which carried Robert Strauss and Lee Kling of the Democratic National Committee, is also a violation of 2 U.S.C. §441b as an in-kind contribution from the NBG.



Under the Federal Election Campaign Act, the Committee has the opportunity to demonstrate that no action should be taken against it. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate statements should be submitted under oath.

In order that the Commission may promptly resolve this matter, the Committee's response should be submitted within ten days of the receipt of this notification. This matter will remain confidential in accordance with 2 U.S.C. §437g (a)(3) unless the Commission receives written authorization to make the investigation public.

To assist in resolving this matter expeditiously, we have incorporated the September 5, 1976 flight into the proposed conciliation agreement so that once your response is received we may deal with these matters together.

Please note that the Commission has determined that a fine of \$1,200 should be made part of the agreement.

In order that this matter may be resolved through conciliation, please contact Robert Bogin, the staff attorney now assigned to this matter, (202) 523-1474, at your earliest convenience.

Sincerely yours,

William C. Oldaker  
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

*2-9-78  
summary  
of  
the  
general  
counsel's  
recommendation  
for  
action*

In the Matter of )  
 )  
Committee for Jimmy Carter )  
National Bank of Georgia )

MUR 442 (77)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on February 8, 1978, the Commission determined by a vote of 5-0 to adopt the General Counsel's recommendations to take the following actions in the above-captioned matter:

1. Find reasonable cause to believe that the Committee for Jimmy Carter and the National Bank of Georgia violated 2 U.S.C. Section 441b on four of the five trips originally included in the reason to believe finding, excluding the June 19 trip number (6).
2. Find reason to believe that the National Bank of Georgia violated 2 U.S.C. Section 441b as to the second flight of trip (12).

Voting for this determination were Commissioners Aikens, Harris, Springer, Staebler, and Thomson. Commissioner Tiernan was not present at the time of the vote.

*Marjorie W. Emmons*

Marjorie W. Emmons  
Secretary to the Commission

7801075259



January 25, 1978

MEMORANDUM TO: Marge Emmons  
FROM: Elissa T. Carr  
SUBJECT: MUR 442 Team #2 Oliphant

Please have the attached General Counsel's Report on MUR 442 distributed to the Commission and placed on the Compliance Agenda for the Commission meeting of February 1, 1978.

Thank you.

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BEFORE THE FEDERAL ELECTION COMMISSION  
January 12, 1978

In the Matter of )  
 )  
Committee for Jimmy Carter ) MUR 442(77)  
National Bank of Georgia )

GENERAL COUNSEL'S REPORT

I. ALLEGATIONS

On August 25, 1977, the Commission found reason to believe that the Committee for Jimmy Carter and the National Bank of Georgia (NBG) violated 2 U.S.C. §441b. The original finding of reason to believe involved Carter's flights on four occasions and his family's flight on a fifth occasion on the plane owned by the National Bank of Georgia. The flights in question took place on August 30, 1975, October 17, 1975, December 29, 1975, June 13, 1976, and June 19, 1976. The Commission's finding was premised on the analysis that these flights constituted in-kind corporate contributions even if the corporation was eventually repaid for the flights.

II. EVIDENCE

Information supplied by the Committee for Jimmy Carter, the National Bank of Georgia, and a report from the Comptroller of the Currency to the Department of Justice obtained through the Department of Justice provided most of the factual background for this matter. Information on the five specific flights in question was also submitted to the Commission by letter of August 22, 1977, from Robert J. Lipshutz on behalf of the

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Committee for Jimmy Carter after press accounts of these flights had been widely publicized. This letter advised the Commission that reimbursement had been made to the Bank after the publicity made the Committee aware of their failure to pay for the plane trips, and asked the Commission's advice concerning their allocation of the reimbursement--\$1,011.15 from the Committee for campaign-related travel, and \$782.55 from Carter's personal funds for vacation trips. Additional subpoenaed information was obtained by staff of the General Counsel's office in Atlanta, Georgia on October 13, 1977, and further information was submitted on behalf of the Bank on October 21 and on behalf of the Committee on November 7, 1977.

These letters provide the Commission with the Bank's and the Committee's justifications as to why the Commission should take no action in this matter. The letter from the NBG was submitted to the Commission in a previous report on the November 2, 1977, agenda. A copy of the Committee's letter is attached to this report. Essentially, both are relying on a "best efforts" attempt to conform to the reporting requirements, and would like the Commission to determine that the failure to reimburse and report the flights is in the category of an inadvertent reporting error. However, in view of the fact that there were five flights involving Carter and that the Committee had not paid for any of them, the General Counsel recommends that the Commission not consider this to be merely a reporting error.

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Based on the investigation of the Comptroller of the Currency, it was determined that during the period in question here-August 30, 1975 to January 7, 1977-1,373 flights were made by the NBG plane. That investigation also provided the passenger list, purpose and itinerary of each flight. 1/ From this information, the General Counsel's staff has prepared a summary chart listing the flights in this period which carried any political figure or were for any political purpose. The chart, containing 29 flights, is attached. Flights 1,2,3, 4 and 6 are the ones for which the Commission already found reason to believe.

III. LEGAL ANALYSIS

The twenty-nine plane trips will be discussed in the following order: (1) the original five trips; (2) the additional pre-general election trips; and (3) the post-election trips.

1. The original five flights. Of the original five plane trips, the Committee for Jimmy Carter has acknowledged a political purpose for four of them. Trips (1), (2) and (3) were solely campaign-related. Trip (4) was also for rest and recreation; however, Carter utilized the opportunity to plan for the upcoming Democratic convention and other political matters, and it is impossible to separate out that portion of the trip allocable to campaign and personal business.

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1/ The passenger list was compiled from then-NBG President Lance's interrogatory answers and from pilot Vann Warren's deposition. The purpose of each flight was obtained from Mr. Lance's answers and the itinerary was compiled from the plane's log books.

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Trip (6), on which the Commission also found reason to believe, did not include Carter himself, but, rather, only his family members. Accordingly, even though the trip occurred during a campaign, it would not seem to be "in connection with" an election, because the candidate himself did not fly on the plane and his family was returning from a vacation. In other words, where the candidate's family alone is involved, it would seem that something more than the mere "candidate status" of the candidate is necessary to find that a trip is "in connection with" an election and is, therefore, an in-kind contribution.

With respect to these five trips it is recommended that the Commission find reasonable cause to believe that (1), (2), (3) and (4) violated 2 U.S.C. §441b, but find no reasonable cause to believe that (6) was in violation of §441b.

2. Other pre-election trips. On eleven other occasions prior to the General election, the NBG plane was utilized to transport various individuals to the Democratic National Convention, to meet with Carter, to attend the opening of the Carter campaign, to attend the Carter-Ford debates, or to meet with a Carter advisor. On no occasion was a candidate flown on any of these flights.

On only one occasion was a Carter family member on board the plane--July 14, 1976. On that date, Jason Carter (Carter's grandson and Jason's grandfather, Beverly Langford, were flown to attend the Democratic National Convention.

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With respect to this flight it seems that something more than the mere candidate status of the candidate is necessary to reach activities involving only the candidate's family members. The July 14 flight was to attend the Democratic National Convention and thus might be considered "in connection with" a Federal election. However, Jason Carter, an infant, was accompanying his grandfather, Beverly Langford, to the convention and Lance had non-political reasons for flying Langford on the NBG plane: Langford was on the board of directors of the banks with which Lance was associated and Langford and Lance had been otherwise associated for many years. Jason Carter lived in the same town as Langford, his grandfather, and he was not to participate in the convention. Given these non-political reasons why both Langford and Jason Carter were flown to the convention, it would seem that this flight was not sufficiently "in connection with" a Federal election to find it a violation of §441b.

Section 441b would not seem to prohibit a bank or corporate executive from using bank transportation to attend a convention or political meeting (whether or not such use is proper under other applicable law.) However, where a corporate plane is utilized to fly an individual whose trip is campaign-related, the provision of transportation to such a person might properly be considered to be an in-kind contribution. The second flight of this trip appears from Mr. Lance's own summary to be such a trip, since the NBG plane flew DNC Chairman Robert Strauss and DNC Treasurer Lee Kling to attend the opening of the Carter campaign and to discuss the establishment of an account at NBG for the campaign.

3. Post-election trips. From November 15, 1976 through January 7, 1977, there were thirteen flights involving advisors to the President-elect who were meeting to discuss transition planning and potential cabinet members. Although these trips related to "political matters", they involved, not campaign strategy, but future planning for the administration. Accordingly, although these may be analyzed as "contributions" to the transition, they were not "in connection with" an election. On that basis, it is recommended that the Commission determine that these flights did not violate 2 U.S.C. §441b.

IV. RECOMMENDATION

It is recommended that the Commission find reasonable cause to believe that the Carter Committee and the NBG violated 2 U.S.C. §441b on four of the five trips originally included in the reason to believe finding, excluding the June 19 trip number (6). The Commission should make an additional finding that there is reason to believe that the NBG violated §441b as to the second flight of trip (12). Should the Commission adopt these findings, we would circulate a proposed notification letter and conciliation agreement to the Carter Committee and a proposed notification letter to the NBG which would give it the opportunity to respond to the trip (12) allegation, as well as advising it of the reasonable cause to believe finding on the other trips.

1/24/78  
Date

*William C. Oldaker*  
William C. Oldaker  
General Counsel

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VERNER, LIIPFERT, BERNHARD AND MCPHERSON ATTACHMENT 1

JAMES M. VERNER  
EUGENE T. LIIPFERT  
BERL BERNHARD  
HARRY MCPHERSON  
RONALD B. NATALIE  
WILLIAM C. EVANS  
MICHAEL J. ROBERTS  
JOHN L. RICHARDSON  
RONALD D. EASTMAN  
MARK J. ANDREWS  
HENRY GOLDBERG  
FRITZ R. KAHN  
STUART F. PIERSON  
MICHAEL F. GOLDMAN  
HOWELL E. BEGLE, JR.

SUITE 1000  
1660 L STREET, N. W.  
WASHINGTON, D. C. 20036

CABLE ADDRESS  
VERLIP  
(202) 452-7400

JOHN A. MERRIGAN  
THOMAS E. ACEY, JR.  
JOSEPH L. MANSON, III  
ROBERT R. BRINKER  
LYNDA S. MOUNTS  
RUSSELL E. POMMER  
JEFFREY D. KOMAROW  
THOMAS J. KELLER  
BARBARA DAVIS  
ANN K. H. SIMON  
VICTOR S. ELGORT  
RICHARD L. CYS  
WILLIAM C. MCFADDEN

MERRITT RUHLEN  
WHITNEY GILLILLAND  
OF COUNSEL

November 7, 1977

Mr. Charles Steele  
Associate General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D. C. 20463

Re: MUR 40042 (77)

Dear Mr. Steele:

This is to supplement my letter to you of September 17, 1977 in the above referenced matter.

On August 23, 1977, Mr. Robert J. Lipshutz, Treasurer of the Committee for Jimmy Carter (the "Committee"), wrote the General Counsel of the Commission providing information about occasions on which Jimmy Carter or members of his immediate family were passengers on an airplane owned by the National Bank of Georgia ("NBG"). You wrote to Mr. Lipshutz on September 1, 1977, requesting further information, which the Committee provided in my September 17 letter. I am now providing additional information which the Committee believes demonstrates that the Commission should not take further action against the campaign in this matter.

Summary

The Committee believes that further FEC action against the campaign in this matter would be both unnecessary and inappropriate. Throughout the campaign, Committee officials took a serious and careful approach to their responsibilities under the federal election laws. The campaign devoted substantial resources to programs (discussed below) designed to insure compliance with the letter and spirit of the Federal Election Campaign Act (the "Act") and the related chapters of the Internal Revenue Code. The delay in reimbursing NBG resulted from the inadvertent failure of a few persons to follow-up on plans to arrange payment for the flights -- an inadvertence that was wholly inconsistent with normal campaign policy and practice.

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When senior campaign officials learned of the unreimbursed flight, the Committee itself corrected the situation promptly by paying the bank. The campaign's prompt, remedial action is the kind of voluntary compliance Congress intended to foster under the enforcement provisions of the Act. Further FEC procedures would not accomplish any statutory objectives not met by the Committee's own action; they would only impose penalties where none are warranted.

A. The Facts

1. Background

Committee officials addressed the subject of any in-kind contributions at the inception of the Carter Campaign. They recognized that receiving unreimbursed services would present particularly troublesome problems. The candidate was committed to strict compliance with the letter and the spirit of the federal election laws and would make integrity and honesty a major campaign theme. Noncompliance would thus carry heavy political as well as legal risks. Yet, the Committee's senior staff recognized that the complex and often vague, new federal election laws needed elaboration and that their task would be complicated because many traditional forms of citizen participation would apparently be treated as regulated contributions for the first time. Further, insuring perfect control over every item or service provided would, they knew, be impossible, given the geographical scope of a presidential campaign and the necessary degree of delegation by senior officials.

In order to achieve the best control possible, the Committee's internal accounting staff, with the help of volunteers from a prominent national accounting firm, designed and instituted procedures and tests to insure to the extent practicable that the Committee would properly identify and record all in-kind items. The Committee hoped that these procedures and tests, some of which are detailed in Appendix A, would facilitate the necessary reporting and enable the campaign to avoid or eliminate any corporate or excessive contributions. One principal feature of these programs was repeated dissemination of information about the basic requirements of the federal election laws to all campaign staff and key supporters in an understandable form. Another was a regular reporting system with prescribed forms for in-kind contributions. The forms provided the accounting staff the necessary information for appropriate recording, FEC reporting and reimbursement where necessary to avoid violations. In addition, the Committee undertook elaborate

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procedures to ferret out any unrecorded liabilities at the end of the pre-nomination period. This included an audit of the Committee's accounting for in-kind contributions as well as a general financial audit by an independent accounting firm. Although the accounting staff believed its procedures were the best possible to avoid any unrecorded and improperly unreimbursed in-kind services, as noted, the senior staff recognized that no system could provide perfect insurance against unrecorded items.

2. The flights at issue

Despite these efforts, senior Committee officials were unaware of any unreimbursed use of NBG's aircraft until the late summer of 1977. At that time NBG notified the Committee that Jimmy Carter or his immediate family had been passengers on NBG's plane five times during 1975, but that the Bank had never billed the Carter campaign. NBG's Executive Vice President wrote that the Bank itself had only recently become aware of the unbilled and unreimbursed flights as a result of an investigation by the Comptroller of Currency. See Appendix B.

The Committee responded promptly in two ways. First, it paid the Bank for any apparently campaign related use of the plane at rates supplied by NBG. The rates, Committee officials understood, were consistent with federal regulations governing occasional use of non-commercial aircraft and in line with prices for comparable charter services. Second, the Committee's Treasurer notified the FEC of the disbursement and sought its advice in the matter, even though the next report to the Commission was not due until October 10.

As to the failure to discover the flights earlier, Mr. T. Bertram Lance, former President of NBG and Director of the Office of Management and Budget, testified under oath before the Senate Governmental Affairs Committee that prior to August 30, 1975 (the date of the first flight involved) he spoke with a staff person about computing appropriate billings and determining "whatever billing process would be involved". Appendix C, p. 2. According to the testimony, both Mr. Lance and the campaign person involved understood that the Committee would reimburse the Bank for any portion of the flights which was campaign related. Apparently, neither Mr. Lance nor the staff person followed up on the conversation; and the Bank did not bill the Committee for the flights until August 22, 1977. Appendix B. Those

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responsible for processing and paying such obligations were simply not aware of any unreimbursed flights on NBG planes until mid-August, 1977, when the Committee took steps to insure prompt payment.

Counsel for the Committee has been unable to identify the staff person involved, which is not surprising given the fact that over two years have passed. However, nothing in the Committee's own independent investigation of these flights has contradicted Mr. Lance's sworn testimony.

B. The Absence of Any Need for Further FEC Action

The issue, the Committee believes, is whether further FEC action would accomplish any objectives of the Act not met by the Committee's own efforts. The Committee's approach to compliance with the federal election laws was neither cavalier nor thoughtless. On the contrary, it was vigorous and carefully planned as shown in the additional materials submitted with this letter. In particular, the Committee not only attempted to avoid accepting unreimbursed in-kind goods or services from corporations, it also applied several accepted accounting techniques in its own effort to identify unrecorded services at later times.

As detailed in Appendix A to this letter, the Committee's efforts to avoid any illegal contributions included: (1) repeated dissemination of the basic requirements of the Federal election laws to all campaign employees and key supporters; (2) early consultation with volunteers from a major independent accounting firm in establishing a system of accounting and controls aimed in part at insuring election law compliance --consultation that supplemented extensive efforts of the Committee's in-house accounting staff; (3) two tiered auditing of all checks to assure that contributions did not come from corporate or union treasuries; (4) a program for handling in-kind contributions to insure appropriate review and, if possible, to convert them to matchable contributions; and (5) several post-campaign efforts to identify any unreimbursed receipt of goods or services. The last mentioned procedures included, among other things, distribution of a form letter to all vendors and others with which the Committee had transactions about the time of the nominating convention inquiring whether the campaign had outstanding obligations to them.

Nevertheless, it would be wholly unreasonable for anyone to expect even the Committee's carefully designed accounting system to catch every single unrecorded obligation.

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During the primary campaign the Committee disbursed nearly \$13 million. The accounting and financial staff dealt with over 20,000 persons by phone, mail or in person in an effort to assure proper accounting and the strictest possible adherence to the federal election laws. In the process the Committee made over 20,000 separate disbursements. More than \$150,000 of those involved reimbursement for the use of small aircraft. The amounts involved represent less than 0.008 percent of the Committee's total expenditures; and in fact the campaign had paid NBG for other services, which were properly recorded and reported. The campaign had no reason to take the high legal and political risks involved in accepting a corporate contribution worth less than \$1,000 from NBG or anyone else. Due to inadvertence -- by other than senior officials -- some services never got into the system that would have generated advance payment or earlier reimbursement.

Even if the FEC were to deem the inadvertent delay in payment a possible violation -- a determination with which the Committee would disagree given the circumstances -- the Commission's principal responsibility under the Act would be to correct the error. The Act requires the Commission to attempt "to correct or prevent the violation by informal methods of conference, conciliation, and persuasion." 2 U.S.C. 437g, (emphasis supplied). The Act plainly seeks to achieve voluntary compliance and to avoid unnecessary financial, political or other penalties in an area of important First Amendment values. Voluntary compliance and conciliation, where necessary, are the principal means of fostering consistency with the Act. See the floor statements of Congressmen Hays and Rosentowski in Appendix D.

In this instance the Committee itself has taken corrective action expeditiously and openly. Were the Commission to insist on further procedures, it would only penalize a committee that took every practicable step to comply with the Act scrupulously and acted quickly to correct an inadvertent delay as soon as senior officials became aware of it. The Committee urges the FEC to take no further action.

If we can provide further materials, please do not hesitate to contact me.

Very truly yours,

*Ronald D. Eastman*  
 Ronald D. Eastman

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MUR 442(77)

ATTACHMENT 2

<u>DATE</u>	<u>PASSENGERS</u>	<u>PURPOSE</u>	<u>ITINERARY</u>	<u>REFERENCE IN PILOT'S DEPOSITION</u>
(1) 8-30-75	Pres. & Mrs. J. Carter & daughter Amy	Good customers of the bank.	Americus 2:08 pm to Calhoun Calhoun 4:22 pm to Copper Hill, Tenn. Ellijay 10:46 pm to Brunswick	Page 228
(2) 10-17-75	Pres. J. Carter & 5 others (all male) (no NRG officials)	Good customers of the bank.	Atlanta 4:30 pm to Dalton Dalton 8:47 pm to Atlanta	Page 290
(3) 12-29-75	Pres. J. Carter & 5 others	Good customers of the bank.	Americus 11:00 am to Atlanta Atlanta 8:50 pm to Americus	Page 310
(4) 6-13-76	Pres. & Mrs. J. Carter daughter Amy & 2 Secret Service Men	Good customers of the bank.	Americus 12:45 pm to Brunswick	Page 350
(5) 6-16-76	Ford Spinks & Sonny Bowen	Spinks is member of of Public Service Commission & bank customer. Bowen is a friend of Spinks. Lance personally reimbursed bank for trip & treated it as political contribution by Lance to Spinks.	Atlanta 6:22 pm to Jekyll Island J. Island 7:55 pm to Brunswick Brunswick to Jekyll Island J. Island 10:40 pm to Brunswick	Page 352

<u>DATE</u>	<u>PASSENGERS</u>	<u>PURPOSE</u>	<u>ITINERARY</u>	<u>REFERENCE IN PILOT'S DEPOSITION</u>
(6) 6-19-76	Mrs. Judy Carter & family Ms. Rosynn Carter, J. Carter son & Amy.	Either personal or political - now being reimbursed to the bank	Brunswick 11:04 am to Americus St. Simons to Americus Americus to Calhoun	P. 355
(7) 7-03-76	J. Nelson	Jack Nelson is Wash. corres. for LA Times who flew to Bainbridge in order to speak with Kirbo. Business dev. for NBG & good publicity.	Atlanta 11:14 am to Bainbridge Bainbridge 2:48 pm to Atlanta	p. 358
(8) 7-11-76	Bert Lance & Labelle	Establish NBG as one of the banks handling Carter Camp. Account. Attend Democratic National Conv.	Atlanta to NY - Air Transit NY to Atlanta Atlanta to TEB (Teeterboro, N.J.), BL +3	p. 360
(9) 7-14-76	Beverly Langford, Jason Carter (grand- son of Pres. Carter) and 4 other unidentified pass.	DNC. Bus. dev. & excellent public relations. Beverly L. is grandfather of Jason, a state senator and bank customer.	Calhoun 7:44 am to Lynchburg Lynchburg 10:24 am to Teeterboro, NJ	p. 362
(10) 7-29-76	Bob Flynt & M. Sullivan, aqt., Mr. & Mrs. Stembler, Mr. & Mrs. Glenn & J.M. Crawford	Flynt of NBG going to dis- cuss & rev. Carter's warehouse loan situation To Elkin, NC & then to Americus with Stembler, Glenns and Crawford for unknown purpose.	Atlanta 7:57 a.m. to Americus Atlanta 10:02 am to Elkin, NC Elkin, NC 11:45 am to Americus Americus 3:15 pm to Atlanta	p. 364
(11) 8-26-76	Bert Lance, Charles Kirbo	To visit J. Carter & see his warehouse operation in Plains	Atlanta 12:21 pm to Americus Americus 4:15 pm to Atlanta	p. 371

<u>DATE</u>	<u>PASSENGERS</u>	<u>PURPOSE</u>	<u>ITINERARY</u>	<u>REFERENCE IN PILOT'S DEPOSITION</u>
(12) 9-05-76	Mr. & Mrs. James Roosevelt, Mr. Franklin Roosevelt & Mr. Ron Platt	Bus. dev. as related to open- ing of C. camp. Second flight, Atlanta to Warm Springs, carried Bob Straus, Tom Mitchell & Lee Kling. Discussed was opening of deposit account w/NBG for campaign.	Atlanta 8:57 pm to Warm Springs Atlanta 10:42 pm to Warm Springs	
(13) 9-06-76	Bert Lance & Family	Being present when Carter pres. camp. kicked off. visited with Jimmy Nesmith, Pres. of bank in Warm Springs. Later flights in day returned above pass. to Atlanta (Bert on each).	Atlanta 7:05 am to Warm Springs Warm Springs 10:12 am to Atlanta Atlanta 10:31 am to Local	
(14) 10-14-76 10-15-76	Bert & Labelle Lance Bert Lance plus others	Not on NBG owned plane, nor leased nor chartered NBG aircraft. Flights of poli- tical nature, made on plane Lance chartered & paid for personally (from Hanger One in Atlanta). Shouldn't be shown on anything relating to bank expenditures. Daily log shows this.	Atlanta 8:06 am to Houston Houston 5:25 pm to Dallas Dallas 11:55 pm to Lubbock, Texas Lubbock 11:39 am to El Paso El Paso 4:50 pm to New Orleans N.O. 11:27 pm to Hilton Head Hilton Head 1:25 am to Atlanta	p. 386
(15) 10-22-76	Mr. & Mrs. Wm. Green, Jr., Labelle Lance	To meet Bert at a correspon- dent bank seminar at United Amer. Bank in Knoxville. Labelle, Bert & DeJongh Franklin flew to the 1st Carter-Ford debate in Wmsbrg. Many influential s.e. busi- ness men there & good for bank business.	Atlanta 4:01 pm to Knoxville Knoxville 5:12 pm to Williamsburg	p. 391

<u>DATE</u>	<u>PASSENGERS</u>	<u>PURPOSE</u>	<u>ITINERARY</u>	<u>REFERENCE IN PILOT'S DEPOSITION</u>
(16) 10-23-76	Bert & Labelle Lance, DeJongh Franklin, Mr. & Mrs. Charles Kirbo and their daughters (2)	To return from debate	Williamsburg 10:41 am to Atlanta	p. 392
(17) 11-15-76	Bert Lance	Request of Pres.-Elect C for meeting at which he invited Lance to join Cabinet.	Covington 2:06 pm to Atlanta Atlanta 6:41 pm to Americus	
(18) 11-18-76	Bert Lance, Phillip Alston & Charles Kirbo	To meet with Pres.- Elect C at his request at Plains.	Atlanta to Americus Americus to Atlanta	
(19) 11-27-76	Mack Robinson, Sam Hudqins, Mr. & Mrs. Jack Mullins	Close advisers joined Lance at Sea Island to discuss Lance joining Carter's cabinet.	Atlanta 10:49 to Brunswick Brunswick 10:49 am to Calhoun Calhoun 12:19 pm to Atlanta	p. 402
(20) 11-30-76	Bert & Labelle Lance, Barker & Rita David (Labelle's brother and sister-in-law) Stock Coleman	Coleman & Lance worked on transition matters while Labelle and Davids looked for home in D.C.	Atlanta 7:15 am to D.C. D.C. 9:05 pm to Atlanta Atlanta - DC, BL & 3 DC - Atlanta, BL & 4	p. 403
(21) 12-1-76	Bert Lance & Stock Coleman	To discuss governmen- tal matters with Pres. -Elect Carter; on trip home picked up Labelle in Calhoun & brought her to Atlanta.	Atlanta 12:25 pm to Plains Plains 7:10 pm to Calhoun Calhoun 9:31 pm to Plains	p. 404
(22) 12-3-76	Ferry to NY to pick up Mr. & Mrs. Cyrus Vance & bring them to DC	To assist Vances get- ting to Plains for meeting with Carter; On return from NY (Teeterboro, NJ) Labelle, Bert Lance & Stock Coleman boarded plane at DC to fly to Americus to meet with Carter.	Teeterboro 9:21 am to Wash. Washington 10:55 am to Americus Americus 4:34 pm to Atlanta	p. 406

<u>DATE</u>	<u>PASSENGERS</u>	<u>PURPOSE</u>	<u>ITINERARY</u>	<u>REFERENCE IN PILOT'S DEPOSITION</u>
(23) 12-07-76	Bert & LaBelle lance Stock Coleman	To D.C. for meeting called by Carter at Blair House. Offered ride to 2 members of transition team from D.C. to Atlanta, but can't remember who they were.	Atlanta 8:33 am to Washington Washington 4:52 pm to Atlanta	
(24) 12-27-76	Kirbo & Schultze	First cabinet meeting	Atlanta to Brunswick Brunswick to Atlanta Atlanta - S & 5, Kirbo & 3 St A, O passing.	p. 420
(25) 12-28-76	Kirbo & Schultze	Take Kirbo to Cabinet meeting, assist with transportation needs of transition government.	Atlanta to Brunswick Plane broke - leased Corp. Jet	p. 422
(26) 1-03-77	Congressman Jack Brooks	Carry Brooks to D.C. Carter wanted to meet with him & only possible if rapid transportation provided.	Atlanta to D.C. D.C. to Atlanta	p. 430
(27) 1-03-77	Bert Lance, Congressman Jack Brooks Stock "Trick" Coleman	To discuss reorganization with Pres.-Elect C. at his request.	Atlanta 2:19 pm to Americus Americus 5:50 pm to Atlanta	p. 430
(28) 1-06-77	Bert Lance, Stock Coleman, Michael Blumenthal & Charles Schultze	To meet Pres.-Elect Carter at Plains; Blumenthal & Schultze returned to Atlanta with Lance, dined at his home & spent the night.	Atlanta 12:51 pm to Americus Americus 6:13 pm to Atlanta	
(29) 1-07-77	Bert Lance, Michael Blumenthal, Charles Schultze & Jack Watson	Returned to Plains to meet with Pres.-Elect Carter	Atlanta 7:17 am to Americus Americus 5:00 pm to Atlanta	

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1866 K STREET, N.W.

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January 3, 1978

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COUNSEL

Lyn Oliphant, Esquire  
Office of the General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Ms. Oliphant:

This is to confirm our telephone conversation of last week, in which I indicated that, because of dislocations caused by the holiday season, it would not be possible for the National Bank of Georgia to deliver by Friday, December 30, 1977 the materials requested in the Commission's subpoena of December 19, 1977.

The Bank will endeavor to furnish the requested materials, to the fullest extent possible, by this Friday, January 6, 1978.

Sincerely,

*William T. Lake*  
William T. Lake

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666 K STREET N.W.

WASHINGTON D.C. 20006

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OF COUNSEL

November 7, 1977

Mr. Charles Steele  
Associate General Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D. C. 20463

Re: MUR 40042 (77)

Dear Mr. Steele:

This is to supplement my letter to you of September 17, 1977 in the above referenced matter.

On August 23, 1977, Mr. Robert J. Lipshutz, Treasurer of the Committee for Jimmy Carter (the "Committee"), wrote the General Counsel of the Commission providing information about occasions on which Jimmy Carter or members of his immediate family were passengers on an airplane owned by the National Bank of Georgia ("NBG"). You wrote to Mr. Lipshutz on September 1, 1977, requesting further information, which the Committee provided in my September 17 letter. I am now providing additional information which the Committee believes demonstrates that the Commission should not take further action against the campaign in this matter.

Summary

The Committee believes that further FEC action against the campaign in this matter would be both unnecessary and inappropriate. Throughout the campaign, Committee officials took a serious and careful approach to their responsibilities under the federal election laws. The campaign devoted substantial resources to programs (discussed below) designed to insure compliance with the letter and spirit of the Federal Election Campaign Act (the "Act") and the related chapters of the Internal Revenue Code. The delay in reimbursing NBG resulted from the inadvertent failure of a few persons to follow-up on plans to arrange payment for the flights -- an inadvertence that was wholly inconsistent with normal campaign policy and practice.

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When senior campaign officials learned of the unreimbursed flight, the Committee itself corrected the situation promptly by paying the bank. The campaign's prompt, remedial action is the kind of voluntary compliance Congress intended to foster under the enforcement provisions of the Act. Further FEC procedures would not accomplish any statutory objectives not met by the Committee's own action; they would only impose penalties where none are warranted.

A. The Facts

1. Background

Committee officials addressed the subject of any in-kind contributions at the inception of the Carter Campaign. They recognized that receiving unreimbursed services would present particularly troublesome problems. The candidate was committed to strict compliance with the letter and the spirit of the federal election laws and would make integrity and honesty a major campaign theme. Noncompliance would thus carry heavy political as well as legal risks. Yet, the Committee's senior staff recognized that the complex and often vague, new federal election laws needed elaboration and that their task would be complicated because many traditional forms of citizen participation would apparently be treated as regulated contributions for the first time. Further, insuring perfect control over every item or service provided would, they knew, be impossible, given the geographical scope of a presidential campaign and the necessary degree of delegation by senior officials.

In order to achieve the best control possible, the Committee's internal accounting staff, with the help of volunteers from a prominent national accounting firm, designed and instituted procedures and tests to insure to the extent practicable that the Committee would properly identify and record all in-kind items. The Committee hoped that these procedures and tests, some of which are detailed in Appendix A, would facilitate the necessary reporting and enable the campaign to avoid or eliminate any corporate or excessive contributions. One principal feature of these programs was repeated dissemination of information about the basic requirements of the federal election laws to all campaign staff and key supporters in an understandable form. Another was a regular reporting system with prescribed forms for in-kind contributions. The forms provided the accounting staff the necessary information for appropriate recording, FEC reporting and reimbursement where necessary to avoid violations. In addition, the Committee undertook elaborate

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procedures to ferret out any unrecorded liabilities at the end of the pre-nomination period. This included an audit of the Committee's accounting for in-kind contributions as well as a general financial audit by an independent accounting firm. Although the accounting staff believed its procedures were the best possible to avoid any unrecorded and improperly unreimbursed in-kind services, as noted, the senior staff recognized that no system could provide perfect insurance against unrecorded items.

2. The flights at issue

Despite these efforts, senior Committee officials were unaware of any unreimbursed use of NBG's aircraft until the late summer of 1977. At that time NBG notified the Committee that Jimmy Carter or his immediate family had been passengers on NBG's plane five times during 1975, but that the Bank had never billed the Carter campaign. NBG's Executive Vice President wrote that the Bank itself had only recently become aware of the unbilled and unreimbursed flights as a result of an investigation by the Comptroller of Currency. See Appendix B.

The Committee responded promptly in two ways. First, it paid the Bank for any apparently campaign related use of the plane at rates supplied by NBG. The rates, Committee officials understood, were consistent with federal regulations governing occasional use of non-commercial aircraft and in line with prices for comparable charter services. Second, the Committee's Treasurer notified the FEC of the disbursement and sought its advice in the matter, even though the next report to the Commission was not due until October 10.

As to the failure to discover the flights earlier, Mr. T. Bertram Lance, former President of NBG and Director of the Office of Management and Budget, testified under oath before the Senate Governmental Affairs Committee that prior to August 30, 1975 (the date of the first flight involved) he spoke with a staff person about computing appropriate billings and determining "whatever billing process would be involved". Appendix C, p. 2. According to the testimony, both Mr. Lance and the campaign person involved understood that the Committee would reimburse the Bank for any portion of the flights which was campaign related. Apparently, neither Mr. Lance nor the staff person followed up on the conversation; and the Bank did not bill the Committee for the flights until August 22, 1977. Appendix B. Those

responsible for processing and paying such obligations were simply not aware of any unreimbursed flights on NBG planes until mid-August, 1977, when the Committee took steps to insure prompt payment.

Counsel for the Committee has been unable to identify the staff person involved, which is not surprising given the fact that over two years have passed. However, nothing in the Committee's own independent investigation of these flights has contradicted Mr. Lance's sworn testimony.

B. The Absence of Any Need for Further FEC Action

The issue, the Committee believes, is whether further FEC action would accomplish any objectives of the Act not met by the Committee's own efforts. The Committee's approach to compliance with the federal election laws was neither cavalier nor thoughtless. On the contrary, it was vigorous and carefully planned as shown in the additional materials submitted with this letter. In particular, the Committee not only attempted to avoid accepting unreimbursed in-kind goods or services from corporations, it also applied several accepted accounting techniques in its own effort to identify unrecorded services at later times.

As detailed in Appendix A to this letter, the Committee's efforts to avoid any illegal contributions included: (1) repeated dissemination of the basic requirements of the Federal election laws to all campaign employees and key supporters; (2) early consultation with volunteers from a major independent accounting firm in establishing a system of accounting and controls aimed in part at insuring election law compliance --consultation that supplemented extensive efforts of the Committee's in-house accounting staff; (3) two tiered auditing of all checks to assure that contributions did not come from corporate or union treasuries; (4) a program for handling in-kind contributions to insure appropriate review and, if possible, to convert them to matchable contributions; and (5) several post-campaign efforts to identify any unreimbursed receipt of goods or services. The last mentioned procedures included, among other things, distribution of a form letter to all vendors and others with which the Committee had transactions about the time of the nominating convention inquiring whether the campaign had outstanding obligations to them.

Nevertheless, it would be wholly unreasonable for anyone to expect even the Committee's carefully designed accounting system to catch every single unrecorded obligation.

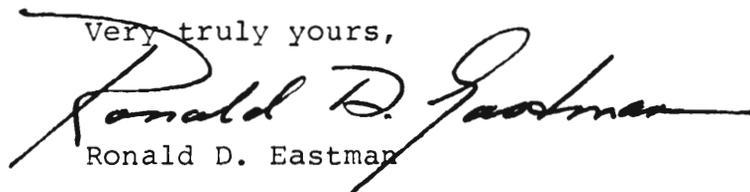
During the primary campaign the Committee disbursed nearly \$13 million. The accounting and financial staff dealt with over 20,000 persons by phone, mail or in person in an effort to assure proper accounting and the strictest possible adherence to the federal election laws. In the process the Committee made over 20,000 separate disbursements. More than \$150,000 of those involved reimbursement for the use of small aircraft. The amounts involved represent less than 0.008 percent of the Committee's total expenditures; and in fact the campaign had paid NBG for other services, which were properly recorded and reported. The campaign had no reason to take the high legal and political risks involved in accepting a corporate contribution worth less than \$1,000 from NBG or anyone else. Due to inadvertence -- by other than senior officials -- some services never got into the system that would have generated advance payment or earlier reimbursement.

Even if the FEC were to deem the inadvertent delay in payment a possible violation -- a determination with which the Committee would disagree given the circumstances -- the Commission's principal responsibility under the Act would be to correct the error. The Act requires the Commission to attempt "to correct or prevent the violation by informal methods of conference, conciliation, and persuasion." 2 U.S.C. 437g, (emphasis supplied). The Act plainly seeks to achieve voluntary compliance and to avoid unnecessary financial, political or other penalties in an area of important First Amendment values. Voluntary compliance and conciliation, where necessary, are the principal means of fostering consistency with the Act. See the floor statements of Congressmen Hays and Rosentowski in Appendix D.

In this instance the Committee itself has taken corrective action expeditiously and openly. Were the Commission to insist on further procedures, it would only penalize a committee that took every practicable step to comply with the Act scrupulously and acted quickly to correct an inadvertent delay as soon as senior officials became aware of it. The Committee urges the FEC to take no further action.

If we can provide further materials, please do not hesitate to contact me.

Very truly yours,

  
Ronald D. Eastman



is personally committed to living with the spirit and the letter of the law. As a representative of his campaign, it is essential that you adopt and demonstrate the same attitude".

The Campaign Manual required that in-kind contributions from individuals be processed under carefully designed procedures and reiterated that the Committee would not accept any cash or in-kind contributions from corporations. In addition to distributing the manual, the campaign dispatched personnel from the national office to explain all the financial and administrative policies of the campaign, including those relating to in-kind and other contributions. Throughout the campaign, headquarters personnel made additional visits to field offices that seemed to have problems adhering to these policies.

Several features of the campaign's regular procedures illustrate the care the Committee gave to the receipt of goods and services. Anyone accepting unreimbursed goods or services for the campaign had to send a report to the accounting staff in a specified format. Staff routinely routed the report to the campaign administrator, who had the responsibility for insuring, among other things, that the contribution had not come from a corporation or labor union. Subsequently, the Committee verified that the contribution did not take the contributor above his legal limits. The Committee reimbursed the contributor if necessary.

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Proper handling of unreimbursed goods and services was important to the campaign for other than compliance reasons. Because in-kind contributions were not matchable, the Committee much preferred money contributions. The administrator also had responsibility for implementing a program for converting in-kind to matchable contributions.

The receipt of checks apparently drawn on corporate accounts also triggered procedures designed to insure return of the check or prompt reimbursement. The Committee required field offices to review all checks received in the first instance and to send a photocopy of every check received to Atlanta. The headquarters accounting staff routinely audited every check received in Atlanta and all field offices -- most of which had their own bank accounts -- and took corrective action, if necessary. The second review was important because the professional staff in Atlanta was particularly attuned to such corporate designations as "P.C.", "S.C.", and "Ltd." that might have been missed in the initial field reviews.

2. Efforts to Identify Unreimbursed Items  
At the End of the Primary Period

Even with these rigorous procedures, the Committee made another attempt to insure that it had met all its legal obligations when the campaign for the nomination came to a

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close. As part of a major effort to liquidate all authorized obligations and to prepare an accurate and complete accounting for all financial transactions, the Committee employed the services of three nationally prominent accounting firms: Arthur Andersen, Arthur Young & Company, and Lester Witte & Company. The Committee itself employed about thirty persons to assist in the various component tasks. Arthur Andersen had direct responsibility to conduct a full independent audit in accordance with generally accepted auditing standards.

In cooperation with the independent accountants the Committee attempted to ascertain whether any vendor had intentionally or unintentionally failed to bill the Committee for properly authorized goods and services provided to the campaign. The extensive effort included among other things:

(1) During its audit Authur Andersen conducted its own test for unrecorded liabilities. Among other things Andersen attempted to confirm with all major vendors that the campaign had properly paid for all goods and services rendered, that there were no material unrecorded liabilities outstanding.

(2) Personnel from Lester Witte & Company reviewed the in-kind contribution files. Their procedures included distribution of a memorandum signed by the Committee's Treasurer which asked all major campaign officials whether they were aware of any in-kind contributions which had not been reported to the Committee's financial office. Lester

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Witte personnel assisted in preparing a final accounting of the campaign's in-kind contributions and expenditures.

(3) During the week of the Convention the Committee distributed a form letter to all vendors and nearly all employees informing them that the Committee would be paying all bills immediately following the Convention. A major objective of the mailing was to stimulate all vendors to come forward with any unsubmitted bills.

(4) The Committee also made another major effort in December 1976 to catch unreimbursed goods or services. The campaign Treasurer mailed another letter inquiring of all corporations holding uncashed Committee checks as to the status of the Committee's debts to them.

Since then the Committee has continued to maintain an office to receive invoices and to handle vendors inquiries. The virtual impossibility of catching all unsubmitted obligations -- even with ample procedures -- is reflected in the Committee's continuing to pay some recently submitted bills, even though the primary campaign ended about fifteen months ago.

## THE NATIONAL BANK OF GEORGIA

August 22, 1977

Mr. Robert Lipshutz  
Treasurer  
Committee for Jimmy Carter  
1600 Pennsylvania Avenue  
Washington, D. C.

Dear Mr. Lipshutz:

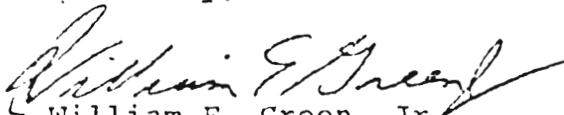
During the recent investigation of The National Bank of Georgia conducted by the Controller of the Currency concerning the affairs of Mr. Bert Lance, we determined that there were several flights made on the NBG plane by President Carter during the year 1975 that appear to be related to his campaign for the office of the Presidency that we had not billed the campaign committee.

These flights consisted of one on August 30, 1975 from Peachtree DeKalb Airport to Americus to Calhoun to Copperhill, Tennessee to Elijay, Georgia, a total of 2 hours and 27 minutes. On October 17, 1975, our plane flew from Peachtree DeKalb Airport to the Atlanta Municipal Airport to Dalton, Georgia to Atlanta Municipal Airport and back to Peachtree DeKalb Airport for a total of 1 hour and 43 minutes of flight time. On December 29, 1975, the plane flew from Peachtree DeKalb Airport to Americus to Fulton County Airport to Peachtree DeKalb Airport to Americus to Peachtree DeKalb for a total of 5 hours and 27 minutes. Then on June 13, 1976 the plane flew from Peachtree DeKalb Airport to Americus to Brunswick and back to Peachtree DeKalb for a total flight time of 3 hours and 14 minutes. We understand this last flight was only one half related to President Carter's campaign, and the other half to his personal business.

In the few instances where there has been personal use of the airplane, we have been reimbursed for that use at the rate of \$90 per hour. Applying this rate to the aforementioned flights which appear related to the campaign, total reimbursement due The National Bank of Georgia would be \$1,011.15.

I will appreciate your having the campaign send us a check for this amount. Thank you:

Sincerely,

  
William E. Green, Jr.

WEG:sa

**THE NATIONAL BANK OF GEORGIA**OFFICE OF THE  
EXECUTIVE VICE PRESIDENT

August 26, 1977

Mr. Robert Lipshutz  
Treasurer  
Committee for Jimmy Carter  
1600 Pennsylvania Avenue  
Washington, D. C.

Dear Mr. Lipshutz:

Thank you for your check reimbursing us for out of pocket costs for the use of our airplane during President Carter's campaign.

At your suggestion, we rechecked the calculations for the trip on December 29, 1975 and have determined that the total hours flown were 3 hours and 12 minutes rather than the 5 hours and 27 minutes shown in our letter to you of August 22. The reduction in the amount of flight time reduces the charge for that day to \$288.00 as opposed to the \$490.50 previously indicated, and results in an overpayment by the Committee of \$202.50.

Our check for this overpayment of \$202.50 payable to the Committee for Jimmy Carter, Jimmy Carter Presidential Campaign, is enclosed.

Sincerely,



William E. Green, Jr.

WEG:sa

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1 Chairman Ribicoff. Senator Stevens?

2 Senator Stevens. Mr. Lance I got up this  
3 morning and went down to look at this record of the  
4 Comptroller General response -- the response of the bank  
5 to the Comptroller General on the use of the aircraft.  
6 And not wanting to get into the area of any Justice  
7 Department investigation -- I just want to ask you two  
8 questions about that though.

9 I assumed that you knew when Mr. Carter was  
10 nominated and attained qualification under the Federal  
11 financing law that the expenses that he and his family had  
12 for traveling would be paid for from the funds provided  
13 for the campaign. So let me just ask you this.

14 You were the head of the bank that owned the  
15 aircraft, and I saw several mentions there of flights that  
16 Mr. Carter and his family took in that airplane.

17 Who had the responsibility to see to it that the  
18 bank was properly paid for the use of that airplane for  
19 Mr. Carter's purposes?

20 Mr. Lance. Senator, the conversation that related  
21 about the first trip that was made, and I am not sure  
22 about the date, but I think that may well have been before  
23 the convention, I do not have those records before me, but  
24 I think in any event whenever the first trip may have been  
25 made.

1 Senator Stevens. I did not take down the dates.  
2 I did not know what the ground rules for copying that  
3 document, so I just did not copy it.

4 Mr. Lance. If we have the record, maybe, I could  
5 look just a minute and I could respond fully to your question.

6 Anyway, Senator, we do not seem to have that  
7 record available. Let me respond to you in this way.

8 Whatever that time was, the conversation that I  
9 had with the scheduling person was that they would figure  
10 out whatever billing process would be involved because of  
11 the complexity involving the Secret Service, etc., and be  
12 back in touch with us. I never did follow through on that  
13 frankly to see whether that was the circumstance and who  
14 responsibility it was in regard to follow through on it.  
15 As you know there is some sort of complex arrangement about  
16 members of the press and Secret Service folks who fly on  
17 any sort of campaign trip and I just did not want to learn  
18 all about that in the process of trying to make a determination  
19 of how to charge for any such trip.

20 But I did have that sort of conversation whenever  
21 the subject first came up.

22 Senator Stevens. Well, the staff has provided me  
23 with the Washington Star article of August 23 that indicates  
24 that there were five flights that they feel were related  
25 to the campaign and other flights that were not related to the

1 campaign the President decided he would personally reimburse  
2 any portions of the flight that were not campaign expenditures.

3 But it would seem that as the responsible official  
4 of the bank that was associated with the campaign, was not  
5 that your responsibility to protect the candidate to see  
6 to it that he did not get involved in any way with regard  
7 to a charge of using a corporate plane in connection with a  
8 campaign that was paid by the government?

9 Mr. Lance. As I say, I am not sure, when those  
10 trips occurred. Your question related after the convention,  
11 and I am not sure that any of those trips occurred after  
12 the convention. I just cannot respond.

13 Senator Stevens. On October 17, 1976?

14 Another is December 29, 1976.

15 Mr. Lance. When the President flew on the airplane?

16 Senator Stevens. October 17, 75; December 29, 75;  
17 June 13, 76; June 19, 76.

18 Mr. Lance. Those were all prior to the convention,  
19 Senator, is that not correct?

20 Senator Stevens. It is the final vacation prior  
21 to the Presidential primary election, this report says, and  
22 on June 19th there is another one.

23 But the point is, was not it your responsibility  
24 to see to it that this matter was taken care of at that time?

25 Mr. Lance. Senator, I have related my conversations

1 to you with a staff person involved in anything that was  
2 a political "trip". And because of the complexity involved  
3 in the process, and I am sure that you could say that it  
4 was my responsibility to follow on through and make sure  
5 that that was done, but I did not.

6 Senator Stevens. Well, could you tell us now,  
7 has the bank been paid for the use of that plane?

8 Mr. Lance. It is my understanding, but I cannot  
9 respond to that of my own knowledge because I have not been  
10 involved in that part of the process. I guess I could find  
11 out and tell you specifically, but I do not know. I understand  
12 that that is the case.

13 Senator Stevens. You were the head of the bank,  
14 did you request payment?

15 Mr. Lance. Senator, again, in relationship to  
16 the conversation that authorized the trip, the conversation  
17 went along the lines that I outlined to you.

18 Senator Stevens. That is not my question.

19 Did you request payment of the campaign committee  
20 to use the plane?

21 Mr. Lance. Did I?

22 Senator Stevens. Yes.

23 Mr. Lance. No, sir, I did not.

24

25

1 Senator Stevens. Could you tell us now, has  
2 the bank been paid for the use of that airplane?

3 Mr. Lance. It is my understanding, but I cannot  
4 respond to that beyond my own judgment, I had not been  
5 involved in that part of the process, I guess I could  
6 find out, but I do not know, U understand that is the  
7 case.

8 Senator Stevens. You were the head of the bank.  
9 Did you request payment?

10 Mr. Lance. Senator, again, in relation to the  
11 conversation that authorized the trip, the conversation  
12 went along the lines that I outlined.

13 Senator Stevens. That is not my question.

14 Did you request payment of the Campaign  
15 Committee for the use of the plane?

16 Mr. Lance. No, sir, I did not.

17 Senator Stevens. Again, I do not have it in  
18 front of me.

19 I do not know the disposition of it, but  
20 interspersed, the President had made use of the plane at  
21 about this same period of time?

22 Did you go pick up the President and bring him  
23 back?

24 You were aware of these trips at the time?

25 Mr. Lance. I was never on the plane when

1 the President was on the plane.

2 Senator Stevens. I noted that, but you were  
3 using it in between times, and you were aware of the trips  
4 at the time?

5 Mr. Lance. Where the trips the President  
6 made?

7 Senator Stevens. Yes.

8 Mr. Lance. Yes, sir.

9 Senator Stevens. Did you take steps then to  
10 see to it that the bank was paid for the use of the  
11 plane?

12 Mr. Lance. No, I did not, Senator. He was  
13 a customer of the bank, as I had explained, and that had  
14 been widely reported in the press.

15 Some of those trips were not campaign trips,  
16 as reported in the press, so I did not request any  
17 payment for those trips.

18 Senator Stevens. I also looked at the expense  
19 vouchers.

20 Some people were asked to reimburse the  
21 the bank for the use of the plane, and again, did you  
22 ask anyone in the bank to see to it that the bank was  
23 reimbursed for the use of that plane?

24 Mr. Lance. No, sir, I did not.

25 Senator Stevens. Thank you very much.

APPENDIX D

EXCERPTS FROM THE LEGISLATIVE  
HISTORY OF 1976 AMENDMENTS

What are we saying here? We are saying that if one of your reports comes in with line 14-C blank, and there should be something in there, that instead of referring it over to the Justice Department for a civil violation, the Commission shall call your treasurer, or whoever files the report, and say, "Look, you forgot to fill in line 14-C on page 7. Give us the information or file an amended report." If you do that, that wipes out the violation.

If the Commission is unable to settle an apparent violation of this act through conciliation, it may bring a civil action. (emphasis supplied) 122 Cong. Rec. H2532 (daily ed. March 30, 1976) (Remarks of Rep. Hays).

\* \* \* \* \*

Another problem to which the House Administration Committee addressed itself in this bill was that of unnecessary and frivolous litigation, which can be both burdensome and extremely costly. H.R. 12406 requires that upon receipt of a complaint, and before instituting any judicial action, the Commission attempt for at least 30 days, through conciliation and persuasion, to correct an alleged violation of the Act. . . .

Mr. Chairman, not only does the bill under consideration grant authority to the Commission to enter into conciliation agreements with alleged violators but also allows the Commission, as part of such agreements, to levy severe monetary fines of up to \$5,000. . . . (Emphasis supplied) Supra at H2537 (Remarks of Rep. Brademas).

\* \* \*

I am more concerned, however, about the provisions in the existing law that provide harsh penalties for what may be innocent and often unknowing violations of its more technical requirements. . . .

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. . . More importantly, I applaud the conciliation process developed by the committee. The 30-day conciliation procedure will provide the necessary buffer to permit the Commission to initially enforce the act by informal methods before instituting court proceedings. This will help those who unknowingly violated the law to achieve voluntary compliance. (emphasis supplied) Supra at H2542 (Remarks of Rep. Rostenkowski).

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7 8 0 4 0 0 5 2 6 0 0

VERNER, LIPFERT, BERNHARD AND McPHERSON

SUITE 1000

1660 L STREET, N. W.

WASHINGTON, D. C. 20036

TO:

Charles Steele, Associate General  
Counsel  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

October 28, 1977

MEMORANDUM TO: Marge Emmons  
FROM: Elissa T. Garr  
SUBJECT: MUR 442 Team #2

Please have the attached Interim Investigative Report on MUR 442 distributed to the Commission and placed on the Compliance Agenda for the Commission meeting of November 2, 1977.

Thank you.

78040052601

BEFORE THE FEDERAL ELECTION COMMISSION

October 28, 1977

In the Matter of	)	
	)	
	)	MUR 442 (77)
National Bank of Georgia	)	
Committee for Jimmy Carter	)	

**EXECUTIVE SESSION**

INTERIM INVESTIGATIVE REPORT

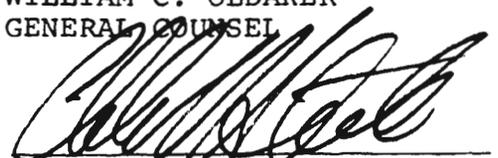
On October 13, 1977 staff of the General Counsel's office inspected the documents produced by the National Bank of Georgia in response to the Commission's subpoena. At that time, copies of all documents not obtained through other government agencies were furnished to the Commission.

On October 21 the National Bank of Georgia submitted a legal memorandum to the Commission setting forth their position as to why the Commission should take no further action in this matter. A copy of this memo is attached. The General Counsel's office understood that Ronald Eastman, on behalf of the Committee for Jimmy Carter, would also be submitting a legal memorandum by the end of last week, but none has been received.

Staff are currently analyzing all the materials submitted and it is anticipated that a General Counsel's report with further recommendations will be submitted within two weeks.

28 October 1977  
DATE

\_\_\_\_\_  
WILLIAM C. OLDAKER  
GENERAL COUNSEL

  
\_\_\_\_\_  
CHARLES N. STEELE  
ASSOCIATE GENERAL COUNSEL

Attachment

73040052002

WILMER, CUTLER & PICKERING

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WASHINGTON, D. C. 20006

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CAROL DRESCHER WEISMAN  
ALAN S. WEITZ  
ANN O. WILLIAMS  
ROBERT G. WILSON  
ROGER M. WITTEN

October 19, 1977

Lester Scall, Esq.  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Mr. Scall:

This is to respond on behalf of our client the National Bank of Georgia ("the Bank") to Mr. Charles N. Steele's letter of September 1, 1977, requesting information relating to the use of an airplane owned by the Bank on five dates in 1975 and 1976.\* / By letter of September 16, 1977, we responded to your specific factual inquiries. We now submit, pursuant to 2 U.S.C. § 437g(a)(4), further information which we believe demonstrates that the Commission should take no action against the Bank by reason of the flights about which you have inquired.

Mr. Steele's letter of September 1, 1977 raised the question whether the Bank violated 2 U.S.C. § 441b by permitting President Carter or members of his family to be passengers on the relevant flights. Section 441b makes it unlawful for a national bank to make a contribution or

\* / You have indicated by telephone that the flights that are the subject of your inquiry (the "relevant flights") occurred on the following dates:

- August 30, 1975
- October 17, 1975
- December 29, 1975
- June 13, 1976
- June 19, 1976

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expenditure in connection with a federal election. The terms "contribution" and "expenditure" are defined as any payment (including a loan) made "for the purpose of influencing" either a primary or general election for federal office. 2 U.S.C. § 431(e), (f). We submit that the facts below make clear that the expenses of the relevant flights did not constitute a contribution or expenditure by the Bank for the purpose of influencing a federal election.

Background

The significance of the relevant flights can be understood in the context of the Bank's business situation in 1975 and 1976. The Bank traces its origins to 1911 and has served Georgia's financial needs successfully since that date. However, prior to the 1970s the Bank was not one of the predominant financial institutions in the state. In late 1974 the Bank's Executive Committee decided that the Bank's further growth and importance as a financial institution in the Southeast could be enhanced by a more vigorous approach to the promotion of the Bank and its services. Mr. T. Bertram Lance was hired by the Bank as its new president in January 1975, in order to institute such an approach.

Mr. Lance was highly qualified to help the Bank establish greater public visibility and to promote its business growth. He had previous experience as a bank president; he had recently served as Director of the State Highway Department; and he had just completed a campaign for the governorship of Georgia. Those experiences had given him an intimate knowledge of the state and a broad exposure to its economic conditions and needs. Mr. Lance was known to be an energetic, aggressive, and personally likable individual, who was respected for his previous banking experience and his public service activities.

The terms of Mr. Lance's employment placed great stress on his active promotion and solicitation of new business for the Bank. The Executive Committee wished him to maximize his own public visibility in such a manner that his name would become synonymous with that of the Bank in the minds of the public, and potential customers would more readily think of the Bank as a source of the banking services they needed. To that end, the Committee understood that Mr. Lance would be required to travel extensively on a

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flexible basis, both to solicit business directly and to obtain contacts and favorable publicity that would generate business in the future. To facilitate such travel and maximize the effective use of Mr. Lance's time, the Bank first leased and later purchased an airplane for Mr. Lance's use and, to a lesser extent, for the use of other officers of the Bank.

During Mr. Lance's two years as president of the Bank, he devoted the bulk of his energies to this business development program. To a degree unprecedented in Georgia's banking history, Mr. Lance made himself the Bank's ambassador to the business and financial communities and became associated in the minds of the public with the Bank and the financial services it offered. He appeared extensively before business and civic groups throughout the state; he organized a symposium in four Georgia cities on the state's economic future; he attended innumerable business, financial, and legal conferences; he was active in many civic and charitable functions that produced publicity for the Bank; and he appeared personally in advertisements promoting the Bank's services. This business development program was highly successful. In the years 1975 and 1976, the Bank's deposits increased 50 percent and its assets increased from \$254 million to \$404 million.

Because Mr. Lance's duties required extensive travel, the Board of Directors of the Bank gave him broad discretion in the use of the Bank's airplane. As Mr. Lance has testified before the Senate Committee on Governmental Affairs, his authority to use the airplane to promote Bank business was not subject to specific guidelines.\*/ However, it was subject to the Board's understanding that all uses would be to the business advantage of the Bank. Mr. Lance testified before the Senate Governmental Affairs Committee that his practice was to reimburse the Bank for any use of the airplane that he or the Bank's comptroller deemed not to be a proper Bank expense.\*\*/ He made such reimbursement on the occasions when he apparently believed that the cost of using the plane might properly be charged to him rather than to the Bank.\*\*\*/

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\*/ Transcript at 905 (Sept. 15, 1977), 1135 (Sept. 16, 1977) (manuscript version).

\*\*/ Id. at 906 (Sept. 15, 1977), 1136-37, 1168-69 (Sept. 16, 1977).

\*\*\*/ Id. at 906 (Sept. 15, 1977), 1148 (Sept. 16, 1977).

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Of course, the Board also understood that all uses of the airplane would be in conformity with the law. The Board was particularly aware of the legal necessity to avoid any use of Bank funds for the purpose of influencing an election. Indeed, shortly before Mr. Lance joined the Bank, it was disclosed that certain officers of the Bank had made political contributions from Bank funds. (See Appendix A.) Pleas of nolo contendere were entered to charges based on those contributions, and the officers made reimbursement to the Bank. The events that gave rise to those charges transpired before Mr. Lance came to the Bank. Both the Board and Mr. Lance understood that his use of the Bank's airplane, like other Bank activities, was subject to the limitations imposed by the federal election laws. The Bank's understanding was evidenced in an offering circular released in connection with an issuance of its shares in August 1976.\*/ As announced in the circular, the Bank

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\*/ The circular stated, at page 36:

"During 1975, senior officers of NBG disclosed that certain political contributions had been made with bank funds, the details of which were fully outlined in NBG's proxy statement for its annual meeting held in April of 1976. Those funds were voluntarily repaid to NBG by the individuals involved and in January of 1976, the Bank, King D. Cleveland and James H. Dickson, Jr. answered nolo contendere [sic] to misdemeanor charges of making political contributions from bank funds of \$350 to the Jefferson-Jackson Day Dinner and \$300 to the Fulton County Republican Party. Those answers were accepted by the United States District Court, fines aggregating \$7,000 were imposed, and no further legal action is anticipated in connection with those transactions. Internal procedures designed to safeguard against a re-occurrence of such uses of funds have been instituted by the Board of Directors."

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instituted new internal operating procedures after those violations to prevent their recurrence.\*/

The Relevant Flights

The passengers on the Bank's airplane on the relevant flights included President Carter (then a Georgia businessman and candidate for the Democratic presidential nomination) or members of his family, or both.\*\*/ President Carter's family peanut business was the largest customer of the Bank.\*\*\*/ Therefore, Mr. Lance may reasonably have believed that the Carter use of the airplane was related to the Bank's interest in encouraging continued business from a large customer -- an interest unrelated to any political purpose President Carter may have had on any of the five flights.\*\*\*\*/ We are advised by our client that no member

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\_\_\_\_\_  
\*/ The prior violations involved cash contributions made by Bank officers out of Bank funds obtained by cashing a general ledger debit. The Bank's new procedures prohibit the use of a general ledger debit to obtain cash. In addition, the new procedures provide for review of expense requisitions before payment by both an accounting clerk and the clerk's supervisor. The requisitions are further reviewed, after payment, by the vice president in charge of accounting and the senior vice president and comptroller.

\*\*/ Our letter of September 1, 1977 enclosed the airplane logs for the five relevant dates, which contain the names of the passengers to the extent that the Bank is aware of those names. According to the logs, President Carter (with others) was a passenger on four of the dates; his wife and family were passengers on the fifth.

\*\*\*/ During 1975 and 1976, that business had conditional lines of credit with the Bank for plant expansion and inventory, which at times reached \$9 million. The amount of credit extended under these arrangements varied, reaching a high of \$3,900,000 on November 2, 1976. These amounts substantially exceeded the Bank's credit arrangements with its next largest customers.

\*\*\*\*/ We understand that the Committee for Jimmy Carter has supplied the Commission with the details concerning President Carter's view of his particular purposes in making each of the relevant flights.

of the Bank's Executive Committee or Board of Directors besides Mr. Lance knew, until the recent public disclosures, that the airplane was used by President Carter or his family. So far as our client has been able to determine, Mr. Lance was the only officer of the Bank who knew of the Carter use of the airplane.

Mr. Lance has testified before the Senate Governmental Affairs Committee that, at the time of the August 30, 1975 flights, he spoke with "the staff person" or "the scheduling person" (apparently a member of the Carter staff) to the effect that that person would determine the appropriate means to repay the Bank for any use of the airplane that might be related to the Carter campaign. Mr. Lance testified that he understood that the "staff person" would be back in touch with "us," but that Mr. Lance did not follow up to see whether that person carried out those instructions.\*/ That testimony makes clear Mr. Lance's understanding that the Bank would be reimbursed for any part of the flights that might properly be deemed a campaign expense. It appears that the failure of the "staff person" to take action to make reimbursement, and Mr. Lance's failure to follow through to require such action, were entirely inadvertent.

Mr. Lance's awareness of the legal constraints on the use of the airplane at Bank expense is illustrated by one of the instances in which he reimbursed the Bank for a nonbusiness use. On June 16, 1976, Mr. Lance authorized Mr. Ford Spinks (then a candidate for state office) to use the aircraft for a flight in connection with Mr. Spinks' political campaign. Mr. Lance personally reimbursed the Bank for the trip and treated it as a political contribution by him to Mr. Spinks. That flight occurred within days of two of the dates (June 13 and June 19, 1976) on which President Carter or his family used the airplane. It is clear that Mr. Lance was aware of the impermissibility of using Bank funds for political purposes and that his practice was to reimburse the Bank for any use of the airplane that he deemed not to be a proper Bank expense.

When, in August 1977, it became known that President Carter had used the airplane, the Bank was contacted by the Committee for Jimmy Carter. The Committee

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\*/ Transcript at 1418-23, 1532 (Sept. 17, 1977) (manuscript version).

informed the Bank which portions of the flights it considered to be related to the campaign, and it reimbursed the Bank for those portions.\*/ The Bank's acceptance of reimbursement was not an acknowledgement that the Bank had incurred the reimbursed expenses for the purpose of influencing an election. Since Mr. Lance was apparently the only Bank officer who knew contemporaneously of the Carter use of the airplane, and since Mr. Lance evidently intended that the Bank receive any appropriate reimbursement, no such purpose can reasonably be attributed to the Bank.

If you have any further questions regarding this matter, we will be happy to cooperate fully.

Sincerely,

*William T. Lake*

William T. Lake

Enclosure

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\*/ The reimbursement was at the rate of \$90 per hour, which was calculated by the Bank to cover its out-of-pocket costs for fuel and oil as well as an allocation of periodic inspection and maintenance costs. The total reimbursement was \$808.65.

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The National Bank  
of Georgia

Appendix A

KING D. CLEVELAND  
CHAIRMAN OF THE BOARD

January 22, 1975

Dear Shareholder:

I am sending you this report to keep you informed on matters affecting the progress of your bank. Some of the news is good and some not so good.

It is a great pleasure to announce that Bert Lance has joined our bank as President and Chief Operating Officer and a member of the Board of Directors effective January 23, 1975. Bert attended Emory University and the University of Georgia and is a graduate of Stonier School of Banking at Rutgers University and of LSU's School of Banking of the South.

Bert was elected President of the Calhoun First National Bank at age 32 and in ten years that bank has grown in total assets from \$6 million to \$60 million. This remarkable record is largely attributable to Bert's innovative ideas and his initiative and hard work.

We expect to give Bert full leeway to use his ability, ideas and talent at NBG to further expand our banking services and facilities on a metropolitan and statewide basis as the opportunity occurs.

We know you will want to welcome Bert and his fine family to Atlanta and NBG.

- - - - -

Our bank's earnings for 1974 declined 69% from 1973. Net income was \$382,000 compared to \$1,229,000 the previous year. Earnings per share were 55¢ in 1974 compared to \$1.86.

For the fourth quarter, we booked a net loss of \$437,000, resulting from the addition to loan loss reserves of over \$1 million during the fourth quarter. The large increase in these reserves was deemed prudent by management because of uncertainties in the economy and an increase in loan losses from approximately \$800,000 in 1973

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to \$1,600,000 in 1974.

Profits were adversely affected by increased operating expenses following the current economic trend; but, we believe that these problems have been pinpointed and we have taken firm steps to deal with them, particularly through increased loan loss provisions and by bringing to bear managerial actions necessary to keep the bank moving forward.

Interest rates on operating funds and time deposits continued at such high rates in 1974 that the profitability from loans was substantially diminished. We are pleased to note that interest rates on time deposits have dropped rather sharply in the past few weeks. If this trend continues, the differential between cost of funds and the return on loans and investments should widen, thus improving profitability.

Our year end deposits stood at \$224.4 million, an increase of 3% over the same date in 1973 of \$216.8 million. Loans and direct lease financing at year end 1974 totaled \$139.9 million, a decrease of 5% from \$147.2 million a year earlier.

Total resources at December 31, 1974 were up 4% to \$262 million compared to \$253 million, and total capital was 4% above the previous year end at \$17.6 million compared to \$17 million.

Our ratio of loans to deposits was only 62% at year end and we are seeking additional consumer and corporate loans.

- - - - -

A recent internal audit revealed that political contributions were made from bank funds in possible violation of Federal statutes. I promptly advised the Board of Directors which initiated a full investigation by the Executive Committee. The investigation revealed that a number of relatively small contributions were made over a period of seven years averaging slightly less than \$8,000 per year. I, as the present Chief Executive Officer, along with Joseph E. Birnie, retired Chairman and Chief Executive Officer, and James H. Dickson, Jr., Executive Vice President and Comptroller, have assumed full responsibility for these actions during our tenures and all such funds have been voluntarily reimbursed to the bank. Pursuant to the recommendation of the Executive Committee, the Board of Directors ordered appropriate measures to prevent a recurrence of

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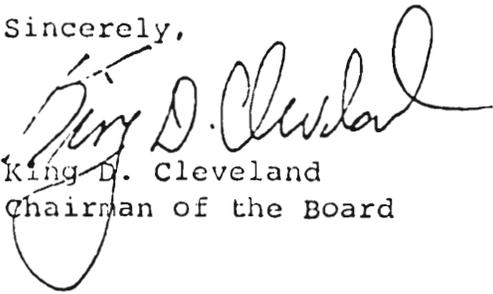
January 22, 1975

such contributions and furnished a full report to the appropriate governmental authorities.

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We remain optimistic about the long-range course of the Atlanta economy. Although the metro-Atlanta economy has been adversely affected by current conditions, a turn-around in the real estate and other major Atlanta industries in 1975 should enable Atlanta to continue to be one of the most dynamic economic centers in the Nation, and we look forward to NBG playing an increasingly important part in these events.

Sincerely,



King D. Cleveland  
Chairman of the Board

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200 1888  
NRN

# THE NATIONAL BANK OF GEORGIA

OFFICE OF THE  
EXECUTIVE VICE PRESIDENT

'77 OCT 26 PM 3:41

October 19, 1977

Lyn Oliphant, Esq.  
Federal Election Commission  
1325 K Street, N. W.  
Washington, D. C. 20413

Dear Ms. Oliphant:

This is to confirm that the documents delivered to you and Mr. Scall for inspection at the bank on October 13, 1977 are, to the best of our knowledge based on a reasonably diligent search of the bank's records, all of the documents in the bank's possession responsive to the Commission's subpoena dated October 3, 1977.

Sincerely,

  
William E. Green, Jr.

WEG:sa



34, Peachtree Street N. W.  
Atlanta, Georgia 30301

77 OCT 28 PM 5:49

Lyn Oliphant, Esq.  
Federal Election Commission  
1325 K Street, N. W.  
Washington, D. C. 20413

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LONDON, EC2V 6AA, ENGLAND

TELEPHONE 01 236-2401

TELEX 851 883242

CABLE ADDRESS: WICRNG LONDON

MANUEL F. COHEN (1912-1977)

LLOYD N. CUTLER  
JOHN H. PICKERING  
HUGH R. W. SMITH  
LOUIS F. OBERDOERFER  
J. ROGER WOLLENBERG  
CHARLES C. GLOVER, III  
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SALLY KATZEN  
F. DAVID LAKE, JR.  
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C. BOYDEN GRAY  
RONALD J. GREENE  
JAY F. LAPIN  
GARY D. WILSON  
C. LORING JETTON, JR.  
WILLIAM T. LAKE

EZEKIEL G. STODDARD  
ARTHUR Z. GARDINER, JR.  
COUNSEL

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LACRLAND H. BLOOM, JR.  
LYNN BREGMAN  
MICHAEL L. BURACK  
RICHARD G. BURT  
RICHARD W. CASS  
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WILLIAM J. ROLASKY, JR.  
CANDACE S. ROVACIC  
VICKI E. LAND

DONALD C. LANGEVOORT  
ELWYN C. LEE  
CHRISTOPHER R. LIPSETT  
RICHARD A. LOWE  
ROBERT A. MAJOR, JR.  
BRUCE E. MAKIMOV  
ROBERT B. McCAW  
MARY A. McREYNOLDS  
A. DOUGLAS MELAMED  
LOWELL B. MILLER  
WILLIAM J. PERLSTEIN  
PHILLIP L. RADOFF  
RENÉ TOWNSEND ROBINSON  
JOHN ROUNSAVILLE, JR.  
MICHAEL S. SCHOOLER  
GAIL F. SCHULZ  
KAREN ROSER SCHWARTZ  
ARTHUR B. SPITZER  
ALAN B. STERNSTEIN  
ERICA A. WARD  
ARTHUR M. WEISBURD  
CAROL DRESCHER WEISMAN  
ALAN S. WEITZ  
ANN O. WILLIAMS  
ROBERT G. WILSON  
ROGER M. WITTEN

October 19, 1977

73040032613

Lester Scall, Esq.  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Mr. Scall:

This is to respond on behalf of our client the National Bank of Georgia ("the Bank") to Mr. Charles N. Steele's letter of September 1, 1977, requesting information relating to the use of an airplane owned by the Bank on five dates in 1975 and 1976.\*/ By letter of September 16, 1977, we responded to your specific factual inquiries. We now submit, pursuant to 2 U.S.C. § 437g(a)(4), further information which we believe demonstrates that the Commission should take no action against the Bank by reason of the flights about which you have inquired.

Mr. Steele's letter of September 1, 1977 raised the question whether the Bank violated 2 U.S.C. § 441b by permitting President Carter or members of his family to be passengers on the relevant flights. Section 441b makes it unlawful for a national bank to make a contribution or

\*/ You have indicated by telephone that the flights that are the subject of your inquiry (the "relevant flights") occurred on the following dates:

- August 30, 1975
October 17, 1975
December 29, 1975
June 13, 1976
June 19, 1976

expenditure in connection with a federal election. The terms "contribution" and "expenditure" are defined as any payment (including a loan) made "for the purpose of influencing" either a primary or general election for federal office. 2 U.S.C. § 431(e), (f). We submit that the facts below make clear that the expenses of the relevant flights did not constitute a contribution or expenditure by the Bank for the purpose of influencing a federal election.

### Background

The significance of the relevant flights can be understood in the context of the Bank's business situation in 1975 and 1976. The Bank traces its origins to 1911 and has served Georgia's financial needs successfully since that date. However, prior to the 1970s the Bank was not one of the predominant financial institutions in the state. In late 1974 the Bank's Executive Committee decided that the Bank's further growth and importance as a financial institution in the Southeast could be enhanced by a more vigorous approach to the promotion of the Bank and its services. Mr. T. Bertram Lance was hired by the Bank as its new president in January 1975, in order to institute such an approach.

Mr. Lance was highly qualified to help the Bank establish greater public visibility and to promote its business growth. He had previous experience as a bank president; he had recently served as Director of the State Highway Department; and he had just completed a campaign for the governorship of Georgia. Those experiences had given him an intimate knowledge of the state and a broad exposure to its economic conditions and needs. Mr. Lance was known to be an energetic, aggressive, and personally likable individual, who was respected for his previous banking experience and his public service activities.

The terms of Mr. Lance's employment placed great stress on his active promotion and solicitation of new business for the Bank. The Executive Committee wished him to maximize his own public visibility in such a manner that his name would become synonymous with that of the Bank in the minds of the public, and potential customers would more readily think of the Bank as a source of the banking services they needed. To that end, the Committee understood that Mr. Lance would be required to travel extensively on a

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flexible basis, both to solicit business directly and to obtain contacts and favorable publicity that would generate business in the future. To facilitate such travel and maximize the effective use of Mr. Lance's time, the Bank first leased and later purchased an airplane for Mr. Lance's use and, to a lesser extent, for the use of other officers of the Bank.

During Mr. Lance's two years as president of the Bank, he devoted the bulk of his energies to this business development program. To a degree unprecedented in Georgia's banking history, Mr. Lance made himself the Bank's ambassador to the business and financial communities and became associated in the minds of the public with the Bank and the financial services it offered. He appeared extensively before business and civic groups throughout the state; he organized a symposium in four Georgia cities on the state's economic future; he attended innumerable business, financial, and legal conferences; he was active in many civic and charitable functions that produced publicity for the Bank; and he appeared personally in advertisements promoting the Bank's services. This business development program was highly successful. In the years 1975 and 1976, the Bank's deposits increased 50 percent and its assets increased from \$254 million to \$404 million.

Because Mr. Lance's duties required extensive travel, the Board of Directors of the Bank gave him broad discretion in the use of the Bank's airplane. As Mr. Lance has testified before the Senate Committee on Governmental Affairs, his authority to use the airplane to promote Bank business was not subject to specific guidelines.\*/ However, it was subject to the Board's understanding that all uses would be to the business advantage of the Bank. Mr. Lance testified before the Senate Governmental Affairs Committee that his practice was to reimburse the Bank for any use of the airplane that he or the Bank's comptroller deemed not to be a proper Bank expense.\*\*/ He made such reimbursement on the occasions when he apparently believed that the cost of using the plane might properly be charged to him rather than to the Bank.\*\*\*/

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\*/ Transcript at 905 (Sept. 15, 1977), 1135 (Sept. 16, 1977) (manuscript version).

\*\*/ Id. at 906 (Sept. 15, 1977), 1136-37, 1168-69 (Sept. 16, 1977).

\*\*\*/ Id. at 906 (Sept. 15, 1977), 1148 (Sept. 16, 1977).

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Of course, the Board also understood that all uses of the airplane would be in conformity with the law. The Board was particularly aware of the legal necessity to avoid any use of Bank funds for the purpose of influencing an election. Indeed, shortly before Mr. Lance joined the Bank, it was disclosed that certain officers of the Bank had made political contributions from Bank funds. (See Appendix A.) Pleas of nolo contendere were entered to charges based on those contributions, and the officers made reimbursement to the Bank. The events that gave rise to those charges transpired before Mr. Lance came to the Bank. Both the Board and Mr. Lance understood that his use of the Bank's airplane, like other Bank activities, was subject to the limitations imposed by the federal election laws. The Bank's understanding was evidenced in an offering circular released in connection with an issuance of its shares in August 1976.\*/ As announced in the circular, the Bank

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\*/ The circular stated, at page 36:

"During 1975, senior officers of NBG disclosed that certain political contributions had been made with bank funds, the details of which were fully outlined in NBG's proxy statement for its annual meeting held in April of 1976. Those funds were voluntarily repaid to NBG by the individuals involved and in January of 1976, the Bank, King D. Cleveland and James H. Dickson, Jr. answered nolo contendere [sic] to misdemeanor charges of making political contributions from bank funds of \$350 to the Jefferson-Jackson Day Dinner and \$300 to the Fulton County Republican Party. Those answers were accepted by the United States District Court, fines aggregating \$7,000 were imposed, and no further legal action is anticipated in connection with those transactions. Internal procedures designed to safeguard against a re-occurrence of such uses of funds have been instituted by the Board of Directors."

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instituted new internal operating procedures after those violations to prevent their recurrence.\*/

### The Relevant Flights

The passengers on the Bank's airplane on the relevant flights included President Carter (then a Georgia businessman and candidate for the Democratic presidential nomination) or members of his family, or both.\*\*/ President Carter's family peanut business was the largest customer of the Bank.\*\*\*/ Therefore, Mr. Lance may reasonably have believed that the Carter use of the airplane was related to the Bank's interest in encouraging continued business from a large customer -- an interest unrelated to any political purpose President Carter may have had on any of the five flights.\*\*\*\*/ We are advised by our client that no member

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\*/ The prior violations involved cash contributions made by Bank officers out of Bank funds obtained by cashing a general ledger debit. The Bank's new procedures prohibit the use of a general ledger debit to obtain cash. In addition, the new procedures provide for review of expense requisitions before payment by both an accounting clerk and the clerk's supervisor. The requisitions are further reviewed, after payment, by the vice president in charge of accounting and the senior vice president and comptroller.

\*\*/ Our letter of September 1, 1977 enclosed the airplane logs for the five relevant dates, which contain the names of the passengers to the extent that the Bank is aware of those names. According to the logs, President Carter (with others) was a passenger on four of the dates; his wife and family were passengers on the fifth.

\*\*\*/ During 1975 and 1976, that business had conditional lines of credit with the Bank for plant expansion and inventory, which at times reached \$9 million. The amount of credit extended under these arrangements varied, reaching a high of \$3,900,000 on November 2, 1976. These amounts substantially exceeded the Bank's credit arrangements with its next largest customers.

\*\*\*\*/ We understand that the Committee for Jimmy Carter has supplied the Commission with the details concerning President Carter's view of his particular purposes in making each of the relevant flights.

of the Bank's Executive Committee or Board of Directors besides Mr. Lance knew, until the recent public disclosures, that the airplane was used by President Carter or his family. So far as our client has been able to determine, Mr. Lance was the only officer of the Bank who knew of the Carter use of the airplane.

Mr. Lance has testified before the Senate Governmental Affairs Committee that, at the time of the August 30, 1975 flights, he spoke with "the staff person" or "the scheduling person" (apparently a member of the Carter staff) to the effect that that person would determine the appropriate means to repay the Bank for any use of the airplane that might be related to the Carter campaign. Mr. Lance testified that he understood that the "staff person" would be back in touch with "us," but that Mr. Lance did not follow up to see whether that person carried out those instructions.\*/ That testimony makes clear Mr. Lance's understanding that the Bank would be reimbursed for any part of the flights that might properly be deemed a campaign expense. It appears that the failure of the "staff person" to take action to make reimbursement, and Mr. Lance's failure to follow through to require such action, were entirely inadvertent.

Mr. Lance's awareness of the legal constraints on the use of the airplane at Bank expense is illustrated by one of the instances in which he reimbursed the Bank for a nonbusiness use. On June 16, 1976, Mr. Lance authorized Mr. Ford Spinks (then a candidate for state office) to use the aircraft for a flight in connection with Mr. Spinks' political campaign. Mr. Lance personally reimbursed the Bank for the trip and treated it as a political contribution by him to Mr. Spinks. That flight occurred within days of two of the dates (June 13 and June 19, 1976) on which President Carter or his family used the airplane. It is clear that Mr. Lance was aware of the impermissibility of using Bank funds for political purposes and that his practice was to reimburse the Bank for any use of the airplane that he deemed not to be a proper Bank expense.

When, in August 1977, it became known that President Carter had used the airplane, the Bank was contacted by the Committee for Jimmy Carter. The Committee

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\*/ Transcript at 1418-23, 1532 (Sept. 17, 1977) (manuscript version).

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informed the Bank which portions of the flights it considered to be related to the campaign, and it reimbursed the Bank for those portions.\*/ The Bank's acceptance of reimbursement was not an acknowledgement that the Bank had incurred the reimbursed expenses for the purpose of influencing an election. Since Mr. Lance was apparently the only Bank officer who knew contemporaneously of the Carter use of the airplane, and since Mr. Lance evidently intended that the Bank receive any appropriate reimbursement, no such purpose can reasonably be attributed to the Bank.

If you have any further questions regarding this matter, we will be happy to cooperate fully.

Sincerely,

*William T. Lake*

William T. Lake

Enclosure

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\*/ The reimbursement was at the rate of \$90 per hour, which was calculated by the Bank to cover its out-of-pocket costs for fuel and oil as well as an allocation of periodic inspection and maintenance costs. The total reimbursement was \$808.65.

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**The National Bank  
of Georgia**

**Appendix A**

KING D. CLEVELAND  
CHAIRMAN OF THE BOARD

January 22, 1975

Dear Shareholder:

I am sending you this report to keep you informed on matters affecting the progress of your bank. Some of the news is good and some not so good.

It is a great pleasure to announce that Bert Lance has joined our bank as President and Chief Operating Officer and a member of the Board of Directors effective January 23, 1975. Bert attended Emory University and the University of Georgia and is a graduate of Stonier School of Banking at Rutgers University and of LSU's School of Banking of the South.

Bert was elected President of the Calhoun First National Bank at age 32 and in ten years that bank has grown in total assets from \$6 million to \$60 million. This remarkable record is largely attributable to Bert's innovative ideas and his initiative and hard work.

We expect to give Bert full leeway to use his ability, ideas and talent at NBG to further expand our banking services and facilities on a metropolitan and statewide basis as the opportunity occurs.

We know you will want to welcome Bert and his fine family to Atlanta and NBG.

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Our bank's earnings for 1974 declined 69% from 1973. Net income was \$382,000 compared to \$1,229,000 the previous year. Earnings per share were 55¢ in 1974 compared to \$1.86.

For the fourth quarter, we booked a net loss of \$437,000, resulting from the addition to loan loss reserves of over \$1 million during the fourth quarter. The large increase in these reserves was deemed prudent by management because of uncertainties in the economy and an increase in loan losses from approximately \$800,000 in 1973

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to \$1,600,000 in 1974.

Profits were adversely affected by increased operating expenses following the current economic trend; but, we believe that these problems have been pinpointed and we have taken firm steps to deal with them, particularly through increased loan loss provisions and by bringing to bear managerial actions necessary to keep the bank moving forward.

Interest rates on operating funds and time deposits continued at such high rates in 1974 that the profitability from loans was substantially diminished. We are pleased to note that interest rates on time deposits have dropped rather sharply in the past few weeks. If this trend continues, the differential between cost of funds and the return on loans and investments should widen, thus improving profitability.

Our year end deposits stood at \$224.4 million, an increase of 3% over the same date in 1973 of \$216.8 million. Loans and direct lease financing at year end 1974 totaled \$139.9 million, a decrease of 5% from \$147.2 million a year earlier.

Total resources at December 31, 1974 were up 4% to \$262 million compared to \$253 million, and total capital was 4% above the previous year end at \$17.6 million compared to \$17 million.

Our ratio of loans to deposits was only 62% at year end and we are seeking additional consumer and corporate loans.

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A recent internal audit revealed that political contributions were made from bank funds in possible violation of Federal statutes. I promptly advised the Board of Directors which initiated a full investigation by the Executive Committee. The investigation revealed that a number of relatively small contributions were made over a period of seven years averaging slightly less than \$8,000 per year. I, as the present Chief Executive Officer, along with Joseph E. Birnie, retired Chairman and Chief Executive Officer, and James H. Dickson, Jr., Executive Vice President and Comptroller, have assumed full responsibility for these actions during our tenures and all such funds have been voluntarily reimbursed to the bank. Pursuant to the recommendation of the Executive Committee, the Board of Directors ordered appropriate measures to prevent a recurrence of

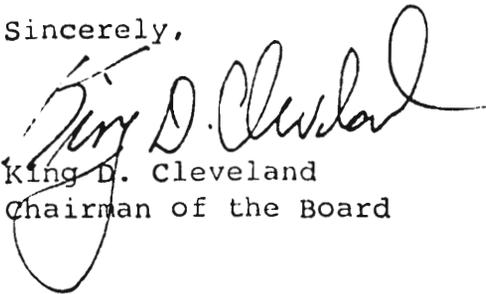
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such contributions and furnished a full report to the appropriate governmental authorities.

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We remain optimistic about the long-range course of the Atlanta economy. Although the metro-Atlanta economy has been adversely affected by current conditions, a turn-around in the real estate and other major Atlanta industries in 1975 should enable Atlanta to continue to be one of the most dynamic economic centers in the Nation, and we look forward to NBG playing an increasingly important part in these events.

Sincerely,



King D. Cleveland  
Chairman of the Board

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*From:*

WILMER, CUTLER & PICKERING  
1666 K STREET, N. W.  
WASHINGTON, D. C. 20006

BY MESSENGER

Lester Scall, Esq.  
Office of General Counsel  
Fourth Floor  
Federal Election Commission  
1325 K Street, N.W.



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

October 6, 1977

MEMORANDUM TO: CHARLES STEELE  
FROM: MARJORIE W. EMMONS *msk E by pc*  
SUBJECT: AUTHORIZATION TO ADMINISTER OATHS

On October 6, 1977 the Commission approved the Authorization to Administer Oaths in connection with MURs 442 and 448.

The approval sheet is attached.

Attachment



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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

AUTHORIZATION TO ADMINISTER OATHS

The Commission hereby designates Lester Scall to take depositions in connection with MUR's 442 and 448 which have been authorized by the Commission. The Commission further authorizes Mr. Scall to administer oaths for any such depositions.

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Thomas E. Harris  
Thomas E. Harris  
Chairman

William L. Springer  
William L. Springer  
Commissioner

Joan D. Aikens  
Joan D. Aikens  
Vice Chairman

Neil Staebler  
Neil Staebler  
Commissioner

Robert O. Tiernan  
Robert O. Tiernan  
Commissioner

Vernon W. Thomson  
Vernon W. Thomson  
Commissioner





FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

October 4, 1977

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Robert P. Guyton  
President  
National Bank of Georgia  
34 Peachtree at Five Points  
Atlanta, Georgia 30303

Re: MUR 442 (77)

Dear Mr. Guyton:

In furtherance of its investigation in the above referenced matter, the Commission has issued a subpoena for the production of certain documents. The subpoena is enclosed herewith.

Sincerely yours,

A handwritten signature in black ink, appearing to read "William C. Oldaker".

William C. Oldaker  
General Counsel



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UNITED STATES OF AMERICA  
FEDERAL ELECTION COMMISSION

Re: MUR 442(77)

Subpoena to Produce Books, Records and other Relevant  
Documents

TO: Mr. Robert Guyton,  
President  
NATIONAL BANK OF GEORGIA  
34 Peachtree at Five Points  
Atlanta, Georgia 30303

At the instance of the Federal Election Commission pursuant to §437d of Title 2, of the United States Code, you are hereby required to deliver for inspection and copying the following documents to authorized representatives of the Federal Election Commission at the main business offices of the National Bank of Georgia, Atlanta, Georgia, on the 13th day of October, 1977 at 2 o'clock p.m., of that day:

1. All records pertaining to the use of the National Bank of Georgia airplane from 1975 to 1977, including, but not limited to bills, receipts, vouchers, memoranda and agreements as to the use of the airplane;

2. All records pertaining to the reimbursement by T. Bertram Lance or anyone on his behalf for the political use of the airplane.

WHEREAS, the Chairman of the Federal Election

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Commission has hereunto set his hand at Washington, D.C.,  
this 3rd day of October 1977.

*Thomas E. Harris*  
\_\_\_\_\_  
THOMAS E. HARRIS,  
Chairman  
Federal Election Commission

ATTEST:

*Margerie W. Emmons*  
\_\_\_\_\_  
Secretary to the Commission

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

October 4, 1977

HAND DELIVER

William T. Lake, Esq.  
Wilmer, Cutler & Pickering  
1600 K. Street, N.W.  
Washington, D.C. 20006

Re: MUR 442 (77)

Dear Mr. Lake:

Enclosed you will find a copy of a subpoena directed to the National Bank of Georgia which Lyn Oliphant of my staff discussed with Patricia Douglass of your firm in a telephone conversation yesterday.

If you have any further questions concerning this matter, please do not hesitate to contact us.

Sincerely yours,

William C. Oldaker  
General Counsel

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● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse. MUR 442 Oliphant	
1. The following service is requested (check one). <input type="checkbox"/> Show to whom and date delivered . . . . .25¢ <input checked="" type="checkbox"/> Show to whom, date, & address of delivery . . . . .45¢ <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom and date delivered . . . . .85¢ <input type="checkbox"/> RESTRICTED DELIVERY. Show to whom, date, and address of delivery . . \$1.05 (Fees shown are in addition to postage charges and other fees).	
2. ARTICLE ADDRESSED TO: William T. Lake, Esq. Wilmer, Cutler & Pickering	
3. ARTICLE DESCRIPTION: REGISTERED NO.    CERTIFIED NO.    INSURED NO.	(Always obtain signature of addressee or agent) I have received the article described above. SIGNATURE <input type="checkbox"/> Addressee <input type="checkbox"/> Authorized agent Edward D. Byington
4. DATE OF DELIVERY 10/4/77	POSTMARK
5. ADDRESS (Complete only if requested)	
6. UNABLE TO DELIVER BECAUSE:	
CLERK'S INITIALS	



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

October 4, 1977

MEMORANDUM TO: CHARLES STEELE  
FROM: MARJORIE W. EMMONS *MWE*  
SUBJECT: Authorization to Issue Subpoena in  
Connection with MUR 442 (77)

The Commission has approved issuing a subpoena to:

Mr. Robert Guyton, President  
National Bank of Georgia  
34 Peachtree at Five Points  
Atlanta, Georgia 30303

The approval of the following Commissioners was obtained:

Commissioner Harris  
Commissioner Springer  
Commissioner Staebler  
Commissioner Thomson  
Commissioner Tiernan



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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

TO: The Commission

RE: MUR 442 (77)

JUSTIFICATION FOR ISSUANCE OF SUBPOENA

On August 31, 1977, the Commission found Reason to Believe that violations of 2 U.S.C. §441b had been committed by the Committee for Jimmy Carter and the National Bank of Georgia.

In order to resolve the issues in this matter, the Commission must obtain documentation pertaining to the use of and reimbursement for use of the National Bank of Georgia airplane from 1975 to 1977 in connection with election campaigns.

It is HEREBY RECOMMENDED that the attached subpoena be served forthwith.

WILLIAM C. OLDAKER,  
General Counsel

DATED: 10/3/77



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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

AUTHORIZATION TO ISSUE SUBPOENA

The Federal Election Commission hereby authorizes the issuance of a subpoena to the following person in connection with MUR 442(77):

Mr. Robert Guyton, President  
NATIONAL BANK OF GEORGIA  
34 Peachtree at Five Points  
Atlanta, Georgia 30303

Thomas E. Harris  
THOMAS E. HARRIS,  
Chairman

Joan D. Aikens  
JOAN D. AIKENS,  
Vice Chairman

William L. Springer  
WILLIAM L. SPRINGER,  
Commissioner

Neil Staebler  
NEIL STAEBLER,  
Commissioner

Vernon W. Thomson  
VERNON W. THOMSON,  
Commissioner

Robert O. Tiernan  
ROBERT O. TIERNAN,  
Commissioner

DATE: \_\_\_\_\_



73040052654

September 29, 1977

MEMORANDUM TO: Marge Emmons  
FROM: Elissa T. Garr  
SUBJECT: MUR 442 (77) Team #1

Please have the attached Interim Investigative Report on MUR 442 (77) distributed to the Commission and placed on the Compliance Agenda for the Commission meeting of October 6, 1977.

Thank you.

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BEFORE THE FEDERAL ELECTION COMMISSION

September 29, 1977

In the Matter of )  
 )  
Committee for Jimmy Carter )  
National Bank of Georgia )

MUR 442(77)

INTERIM INVESTIGATIVE REPORT

The General Counsel's office has received preliminary responses from the Committee for Jimmy Carter and the National Bank of Georgia providing factual information concerning the plane trips in question in this matter. Further responses of a legal nature are expected by the end of the first week of October.

On September 19, 1977, the General Counsel's office obtained from the Department of Justice the information compiled by the Comptroller of the Currency regarding the use of the National Bank of Georgia airplane.

On the basis of the factual information obtained to date, it appears that trips other than the original five included in the reason to believe report may have been in connection with a federal election, including trips related to transition activities for then President-elect Carter's administration. Further details concerning these trips will be obtained and, on the basis of that information, additional recommendations concerning these trips will be made.

9/29/77  
Date

  
William C. Oldaker

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Sept 29, 1977

MURs 442  
448

Honorable Abraham A. Ribicoff, Chairman  
Committee on Governmental Affairs  
United States Senate  
Washington, D. C.

Dear Mr. Chairman:

As you are aware, the Federal Election Commission has exclusive primary jurisdiction over violations of the Federal Election Campaign Act of 1971, as amended (the "Act"). Pursuant to this jurisdiction, the Commission has opened an inquiry into possible violations of the Act which were brought to light in the recent investigations conducted by the Comptroller of the Currency into the affairs of Mr. T. Bertram Lance at the Calhoun First National Bank, Calhoun, Georgia, and the National Bank of Georgia.

The testimony given before your committee by Mr. Lance, and others, contains information which would aid the Commission in its determination of what, if any, action it should take. Accordingly, we request that copies of the hearing transcripts be made available to the Commission for its files at your earliest convenience.

Section 437g(a)(3)(B) of Title 2 prohibits the making public of any investigation conducted by the Commission without the express written consent of the person with respect to whom the investigation is made. In accordance with this statutory requirement, we ask that this request remain confidential.

If you have any questions concerning this request, please contact me or Lester Scall, Assistant General Counsel (telephone no. 523-4162).

Thank you for your assistance in this matter.

Sincerely,

William C. Oldaker  
General Counsel

Loliphant:ln:9/29/77

73040752037



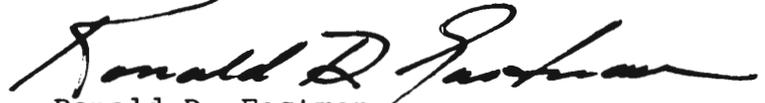
Charles N. Steele, Esq.  
September 17, 1977  
Page Two

On June 13, 1976 the candidate flew from Americus, Georgia to Sea Island for both recreation and political planning sessions. While there, rest and recreation periods were interspersed with meetings involving the candidate and several senior advisors. Those meetings covered convention planning, Vice Presidential nominee selection, and other similar issues. Again, the Committee would try to provide more data in response to requests for specific information, but it is uncertain as to what type of additional detail you seek.

Finally, you note that the Committee has an opportunity to demonstrate that the Commission should not take any action. In that regard the Committee would like to supply additional materials which should assist the Commission in determining what action, if any, to take. We plan to submit those to you in the next two weeks.

If you have any further questions, please do not hesitate to be in touch with me.

Very truly yours,



Ronald D. Eastman  
Counsel to the  
Committee for Jimmy Carter

Enclosures



# THE NATIONAL BANK OF GEORGIA

August 22, 1977

Mr. Robert Lipshutz  
Treasurer  
Committee for Jimmy Carter  
1600 Pennsylvania Avenue  
Washington, D. C.

Dear Mr. Lipshutz:

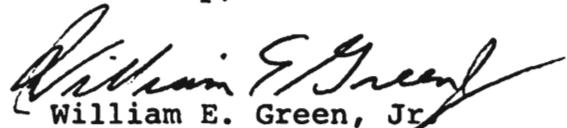
During the recent investigation of The National Bank of Georgia conducted by the Controller of the Currency concerning the affairs of Mr. Bert Lance, we determined that there were several flights made on the NBG plane by President Carter during the year 1975 that appear to be related to his campaign for the office of the Presidency that we had not billed the campaign committee.

These flights consisted of one on August 30, 1975 from Peachtree DeKalb Airport to Americus to Calhoun to Copperhill, Tennessee to Elizay, Georgia, a total of 2 hours and 27 minutes. On October 17, 1975, our plane flew from Peachtree DeKalb Airport to the Atlanta Municipal Airport to Dalton, Georgia to Atlanta Municipal Airport and back to Peachtree DeKalb Airport for a total of 1 hour and 43 minutes of flight time. On December 29, 1975, the plane flew from Peachtree DeKalb Airport to Americus to Fulton County Airport to Peachtree DeKalb Airport to Americus to Peachtree DeKalb for a total of 5 hours and 27 minutes. Then on June 13, 1976 the plane flew from Peachtree DeKalb Airport to Americus to Brunswick and back to Peachtree DeKalb for a total flight time of 3 hours and 14 minutes. We understand this last flight was only one half related to President Carter's campaign, and the other half to his personal business.

In the few instances where there has been personal use of the airplane, we have been reimbursed for that use at the rate of \$90 per hour. Applying this rate to the aforementioned flights which appear related to the campaign, total reimbursement due The National Bank of Georgia would be \$1,011.15.

I will appreciate your having the campaign send us a check for this amount. Thank you.

Sincerely,

  
William E. Green, Jr.

WEG:sa



# THE NATIONAL BANK OF GEORGIA

OFFICE OF THE  
EXECUTIVE VICE PRESIDENT

August 26, 1977

Mr. Robert Lipshutz  
Treasurer  
Committee for Jimmy Carter  
1600 Pennsylvania Avenue  
Washington, D. C.

Dear Mr. Lipshutz:

Thank you for your check reimbursing us for out of pocket costs for the use of our airplane during President Carter's campaign.

At your suggestion, we rechecked the calculations for the trip on December 29, 1975 and have determined that the total hours flown were 3 hours and 12 minutes rather than the 5 hours and 27 minutes shown in our letter to you of August 22. The reduction in the amount of flight time reduces the charge for that day to \$288.00 as opposed to the \$490.50 previously indicated, and results in an overpayment by the Committee of \$202.50.

Our check for this overpayment of \$202.50 payable to the Committee for Jimmy Carter, Jimmy Carter Presidential Campaign, is enclosed.

Sincerely,

  
William E. Green, Jr.

WEG:sa



See # 1510

WILMER, CUTLER & PICKERING  
1666 K STREET, N. W.

MANUEL F. COHEN (1912-1977)

LLOYD N. CUTLER  
JOHN H. PICKERING  
HUGH R. H. SMITH  
LOUIS F. OBERDORFER  
J. ROGER WOLLENBERG  
CHARLES C. GLOVER, III  
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F. DAVID LAKE, JR.  
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STEPHEN F. BLACK  
C. BODDEN GRAY  
RONALD J. GREENE  
JAY F. LAPIN  
GARY D. WILSON  
C. LORING JETTON, JR.  
WILLIAM T. LAKE

EZEKIEL G. STODDARD  
ARTHUR J. GARDINER, JR.  
COUNSEL

WASHINGTON, D. C. 20006

CABLE ADDRESS: WICRING WASH., D. C.  
INTERNATIONAL TELEX 440-239  
TELEX: 89-2402  
TELEPHONE 202 872-6000

EUROPEAN OFFICE  
5 CHEAPSIDE  
LONDON, EC2V 6AA, ENGLAND  
TELEPHONE 01-236-2401  
TELEX: 851 883242  
CABLE ADDRESS: WICRING LONDON

STEWART A. BLOCK  
LACKLAND H. BLOOM, JR.  
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RICHARD G. BURT  
RICHARD W. CASS  
WILHELMINA NEUBEN COOKE  
NICHELE B. CORASH  
MARY CAROLYN COE  
PATRICIA D. DOUGLASS  
S. ALLEN EARLY, III  
JAMES R. FARRAND  
NANCY C. GARRISON  
NEAL M. GOLDBERG  
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ALLEN H. HARRISON, JR.  
JOHN H. HARRWOOD II  
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A. STEPHEN HUT, JR.  
DAVID R. JOHNSON  
JAMES T. KILBRETH, III  
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PAUL S. KOFFSKY  
WILLIAM J. KOLASKY, JR.  
CANDACE S. KOVACIC  
VICKI E. LAND

DONALD C. LANGEVOORT  
ELWYN C. LEE  
CHRISTOPHER R. LIPSETT  
RICHARD A. LOWE  
ROBERT A. MAJOR, JR.  
ROBERT E. MAXIMOV  
ROBERT B. MCCAW  
MARY A. McREYNOLDS  
A. DOUGLAS MELANED  
LOWELL B. MILLER  
WILLIAM J. PERLSTEIN  
PHILLIP L. RADOFF  
RENE TOWNSEND ROBINSON  
JOHN ROUNSAVILLE, JR.  
MICHAEL S. SCHOOLER  
GAIL F. SCHULZ  
KAREN ROBER SCHWARTZ  
ARTHUR B. SPITZER  
ALAN B. STERNSTEIN  
ERICA A. WARD  
ARTHUR M. WEISBURD  
CAROL DRESCHER WEISMAN  
ALAN S. WEITZ  
ANN O. WILLIAMS  
ROBERT G. WILSON  
ROGER M. WITTEN

September 16, 1977

73010751043

Lester Scall, Esq.  
Federal Election Commission  
1325 K Street, N.W.  
Washington, D.C. 20463

Dear Mr. Scall:

This letter is a response on behalf of the National Bank of Georgia ("the Bank") to a request for specific factual information made by Charles N. Steele in a letter to Robert P. Guyton, President of the Bank, dated September 1, 1977 and received by the Bank on September 7. It responds also to further specific requests made by you in a telephone conversation with Raymond C. Clevenger and Patricia D. Douglass of this firm on September 9, 1977.

The requested information relates to the use of a plane owned by the Bank, which made certain flights on August 30, October 17, and December 29, 1975 and June 13 and 19, 1976 (collectively, the "relevant flights"). I set forth your requests and the responsive information below.

- 1) Name, title, and current address of the person responsible for the use of the Bank's plane on the dates of the relevant flights:

T. Bertram Lance

President, Chief Operating Officer,  
and Director (on August 30, October 17,  
and December 29, 1975); President, Chief  
Executive Officer, and Director (on  
June 13 and 19, 1976)

Director, Office of Management and Budget  
Old Executive Office Building  
17th & Pennsylvania Avenue, N.W.  
Washington, D.C. 20503

- 2) Name and address of pilot of the plane for  
the relevant flights:

Vann Warren  
3005 Remington Street  
East Point, Georgia 30344

(last known address; current whereabouts unknown)

- 3) Type of certificate under which the plane  
operates:

Part 91

- 4) Type of plane and its registration number:

Queen Air B 80  
Registration No. N 74 BL

In addition, you have asked the Bank to supply  
a copy of the plane's logs for the relevant flights, to  
show (a) the identity of the passengers, (b) fuel consumption  
and cost, and (c) route and mileage flown and stops made.  
We have included copies of the relevant flight logs, which  
show most of the information requested. In those instances  
where the requested information is not contained in the  
enclosed logs (for example, fuel consumption for the flight  
of October 17, 1975, has not been entered on the log, and  
some passengers are not identified by name), such informa-  
tion is not in the possession of the Bank.

The Bank requests that it be afforded an additional  
ten days (until September 26) to make a further submission  
demonstrating, pursuant to 2 U.S.C. § 437(g)(4), that no  
action should be taken against it by reason of the relevant  
flights. This additional period is necessary to permit the  
Bank to familiarize itself with the circumstances surrounding

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the relevant flights sufficiently to determine their possible significance under the federal election laws. Two individuals who may have further information with respect to the flights -- Mr. Lance and Mr. Warren -- have both ceased to be employees of the Bank. Mr. Lance, who was formerly a member of the Bank's management, is currently testifying before a congressional committee, and his testimony may extend to the very matters of which you now inquire of the Bank. Mr. Warren's present whereabouts is unknown to the Bank. The Bank is currently under investigation by other federal agencies as a result of disclosures in the public press with respect to Mr. Lance. Under these circumstances, additional time is required for the Bank to collect and assess the remaining facts bearing on this matter.

The Bank intends to cooperate fully with the Commission in its inquiry, and will augment this response within ten days, or more quickly if that proves to be possible.

Sincerely,



William T. Lake

Enclosure

7304075261j

73010152016

Flight Number: <b>74 BL</b>		Pilot: <b>VANN WARREN</b>		Date: <b>8-30-75</b>		A.T.C. Clearance: <b>8-23-1</b>	
Flight:		Eligible Times <b>46.00</b>		Aircraft Supplies <b>46.00</b>		<b>48 AF</b> <b>60</b> <b>108</b> <b>72</b> <b>87</b> <b>54</b> <b>60</b> <b>273</b> <b>59</b> <b>230</b> <b>27</b> <b>257</b> <b>64</b> <b>1 1/2</b>	
FROM	TO	OFF	ON	Flight Time	Block Time	Statute Miles	
PDK	Americus	1258	1348	:50	1:05	125	<b>17</b>
Americus	OPR	1408	1508	1:00	1:00	197	<b>17</b>
OPR	WILL	1622	1643	:21	:35	52	<b>40</b>
WILL	ELI	1659	1714	:16	:30	28	<b>44</b>
ELI	SS1	2246	2426	1:40	1:55	314	<b>44</b>
SS1	PDK	0044	0204	1:20	1:35	257	<b>44</b>
Passengers:				TOTALS	5:27	974	<b>171</b>
Ferry					864:51		<b>17</b>
Myc. Msc. Captain AMI					870:18		<b>17</b>
Porters 13							<b>17</b>
Ferry							<b>17</b>
Captain + 2							<b>17</b>
Ferry							<b>17</b>
					Fuel Added <b>6830</b>	92 gals.	<b>17</b>
					Added <b>30.58</b>	100.00 gals.	<b>17</b>

Flight Number: <b>74 BL</b>		Pilot: <b>VANN WARREN</b>		Date: <b>10-17-75</b>		A.T.C. Clearance: <b>10-14-</b>	
Flight:						<b>1776</b> <b>125.7</b> <b>.9</b> <b>26</b>	
FROM	TO	OFF	ON	Flight Time	Block Time	Statute Miles	
K	ATL	1512	1531	:19	:30	17	<b>17</b>
to	SALTON	1630	1703	:33	:50	78	<b>17</b>
to	ATL	2047	2124	:37	:55	78	<b>17</b>
to	PDK	2138	2247	:14	:30	17	<b>17</b>
Passengers:				TOTALS	1:43	190	<b>17</b>
Ferry for Carter FLT					952:29		<b>17</b>
Carter plus 5					954:12		<b>17</b>
Ferry from Carter FLT							<b>17</b>
					Fuel Added	gals.	<b>17</b>
						gals.	<b>17</b>

78040752617

N 74 BL VANN WARREN 12-24-75

Adm. Clearance: 12-15

Type: ~~Reg.~~

FROM-	TO-	OFF-	ON-	Flight Time	Block Time	Statute Miles
PDK	ANC	0545	0605	20	35	54
ANC	PDK	0625	0645	20	35	54
PDK	Americus	1005	1050	45	100	125
Americus	FTY	1100	1143	43	100	125
FTY	PDK	1150	1157	07	15	16

59  
 33  
 72  
 17  
 129  
 17  
 59  
 33  
 99  
 11  
 108 - 1/12

Passengers:	TOTALS	3:15	374
Ferry			
SL		39:17	Aircraft Time Brought Forward
Ferry			Total Aircraft Time
Carrier + 5			
Ferry			
Fuel Added	PDK 76.81	100.00	gals.

119

N 74 BL VANN WARREN

Adm. Clearance:

Type: Flight:

FROM-	TO-	OFF-	ON-	Flight Time	Block Time	Statute Miles
PDK	Americus	2057	2154	55	140	126
Americus	PDK	2203	2245	42	100	126
				2:45		374

B

Passengers:	TOTALS	3:52	626
Carrier + 5		39:17	Aircraft Time Brought Forward
Ferry		43:09	Total Aircraft Time
Fuel Added			gals.
			gals.

7804073048

Aircraft Number: <b>N 74 BL</b>		Pilot: <b>VANN WARREN</b>		Date: <b>6-13-76</b>		A.T.C. Clearance: <b>6-10-76</b>	
Expenses: <b>Coffee - Hot - 3.00</b>							
-FROM-	-TO-	-OFF-	-ON-	Flight Time	Block Time	Statute Miles	-I/A-
PDK	AMER	0935	1029	:54	1410	125	D/I A/P
AMER	SSI	1245	1345	:58	1415	178	D/I N
SSI	PDK	1358	1520	1:22	1435	272	D/I N
Passengers:				TOTALS	3:14	575	
From m/m South - 2 SS From _____ _____				Aircraft Time Brought Forward	249:01		
				Total Aircraft Time	252:15		
				Fuel Added	75.80	100.00 gals.	

6-10-76  
 Pass 60  
 PDK-TOT  
 TET-PDK  
 PDK-AMER  
 AMER-PDK  
 AF 101  
 19.3 5

8-1  
 23  
 107

Aircraft Number: <b>N 74 BL</b>		Pilot: <b>VANN WARREN</b>		Date: <b>6-14-76</b>		A.T.C. Clearance: <b>AT</b>	
Expenses: <b>Oil Camp 2.00</b>							
-FROM-	-TO-	-OFF-	-ON-	Flight Time	Block Time	Statute Miles	-I/A-
ELT	SSI	0830	1007	1:37	1450	238	D/I N
SSI	AMER	1104	1202	1:58	1410	178	D/I N
AMER	QAP	1212	1317	1:05	1420	200	D/I N
QAP	PDK	-	-	25	140	54	D/I N
Passengers:				TOTALS	4:05	720	
From m/m South + 1150 From _____ _____				Aircraft Time Brought Forward	262:43		
				Total Aircraft Time	266:48		
				Fuel Added	57.84	66.00 gals.	

6-12-76  
 70 5 10  
 124.0  
 70 5 7  
 45 2:5  
 80 2:5  
 30 10:0  
 175 15.5  
 1900  
 570  
 592  
 3042  
 23  
 12  
 244  
 22  
 261

213

7 3 9 4 0 7 5 2 0 1 1

*From:* WLake  
WILMER. CUTLER & PICKERING  
1666 K STREET. N. W.  
WASHINGTON. D. C. 20006

BY MESSENGER: Leave w/Mrs. Newcomer

Lester Scall, Esq.  
Federal Election Commission  
1325 K Street, N.W.  
Fourth Floor



FEDERAL ELECTION COMMISSION

1125 K STREET, N.W.  
WASHINGTON, D.C. 20463

September 1, 1977

Robert J. Lipshutz, Esq.  
Treasurer  
Committee for Jimmy Carter  
1600 Pennsylvania Avenue, N.W.  
Washington, D. C. 20500

Re: MUR 442 (77)

Dear Mr. Lipshutz:

This letter is to inform you that the Federal Election Commission has found reason to believe that the Committee for Jimmy Carter violated 2 U.S.C. §§441b and 434(b).

The Commission's determination is based upon accounts of Mr. T. Bertram Lance's press conference on August 18, 1977, the details of which were confirmed in your letter of August 22, 1977. Specifically, the staff of the Committee for Jimmy Carter arranged for the use by candidate James Earl Carter of an airplane owned by the National Bank of Georgia during the primary campaign for the Democratic Nomination for President.

Section 441b of Title 2 of the United States Code prohibits national banks from making contributions or expenditures (including loans) in connection with Federal elections. Furthermore, §441b prohibits candidates and their committees from accepting such contributions or expenditures. Accordingly, use of the National Bank of Georgia airplane under the circumstances described in your letter, even if the costs were later reimbursed, gives the Commission reason to believe that a prohibited contribution has been effected.

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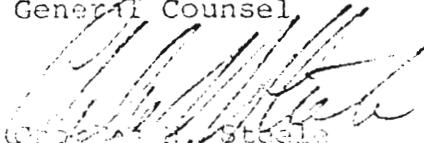
Section 434(b) of Title 2 of the United States Code requires the detailed reporting of receipts and expenditures. Contributions in excess of \$100, including in-kind contributions of goods and services, must be itemized and identified on the appropriate report. Inasmuch as the reports filed by the Committee for Jimmy Carter did not include entries reporting the use by the campaign of the bank's airplane, the Commission has reason to believe that §434(b) has been violated.

You have an opportunity to demonstrate that no action should be taken by the Commission. In order that this matter may be promptly resolved, the Commission requests that you provide to it any further information you deem relevant to this inquiry within ten (10) days of receipt of this letter. Although your letter of August 22 provides information concerning this matter, the Commission requests further data. In particular, the Commission wishes to know the manner in which the per hour flight time costs of each trip were calculated by the Committee. Please provide further details regarding the candidate's political activities during the trips of August 30, 1975, and June 13, 1976.

This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you give the Commission written permission to make this investigation public. If you have any questions concerning this matter, please contact Lester Scall (telephone no. 523-4162), the attorney assigned to this case.

Sincerely yours,

William C. Oldaker  
General Counsel

  
Gregory A. Steele  
Associate General Counsel

73910051031

7 5 0 1 5 1 0 6 7

MUR 442 Olyphant

PS Form 3811, Nov. 1976

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).
- Show to whom and date delivered ..... 25¢
  - Show to whom, date, & address of delivery ..... 45¢
  - RESTRICTED DELIVERY.  
Show to whom and date delivered ..... 85¢
  - RESTRICTED DELIVERY.  
Show to whom, date, and address of delivery .. \$1.05
- (Fees shown are in addition to postage charges and other fees).

2. ARTICLE ADDRESSED TO:  
Robert J. Lipshutz, Treas.  
Comm. for Jimmy Carter

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	943026	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE  Addressee  Authorized agent

*Robert J. Lipshutz*

4. DATE OF DELIVERY POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS



FEDERAL ELECTION COMMISSION

1325 K STREET, N.W.  
WASHINGTON, D.C. 20543

September 1, 1977

Robert P. Guyton  
President  
National Bank of Georgia  
34 Peachtree at Five Points  
Atlanta, Georgia 30303

Re: MUR 442 (77)

Dear Mr. Guyton:

This letter is to notify you that the Federal Election Commission, based upon information obtained in the ordinary course of its supervisory responsibilities, has found reason to believe that the National Bank of Georgia violated 2 U.S.C. §441b in connection with the use of its airplane by President Carter between August, 1975, and June, 1976, during the Presidential primary campaign.

Provision of the Bank's airplane to the Committee for Jimmy Carter in connection with a federal election campaign is an in-kind contribution prohibited by 2 U.S.C. §441b. This section prohibits the making and acceptance of contributions or expenditures by national banks, including loans in connection with federal elections. Accordingly, use of the plane for campaign related purposes, even if the costs were later reimbursed, gives reason to believe that a prohibited contribution occurred.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Specifically, indicate in your response whether the National Bank of Georgia airplane has a Part 91 or Part 135 certificate from the Federal Aviation Administration.

In order that the Commission may promptly resolve this case, your response should be submitted within ten days of the receipt of this notification.

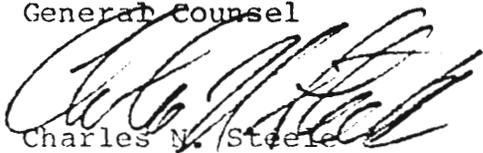


This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless the Commission receives written authorization to make the investigation public.

If you have any questions concerning this matter, please contact Mr. Lester Scall (telephone No. 202/523-4162), the attorney assigned to this case. If you intend to be represented by counsel in this matter, please have such Counsel so notify us in writing.

Sincerely yours,

William C. Oldaker  
General Counsel



Charles N. Steele  
Associate General Counsel

73010052011

7 8 0 4 0 5 1 0 6 7

MUR 442 Oliphart

PS Form 3811, Mar. 1976

● SENDER: Complete items 1, 2, and 3. Add your address in the "RETURN TO" space on reverse.

1. The following service is requested (check one).

Show to whom and date delivered..... 15¢

Show to whom, date, & address of delivery.. 35¢

RESTRICTED DELIVERY. Show to whom and date delivered..... 65¢

RESTRICTED DELIVERY. Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:  
Robert P. Guyton Pres.  
National Bank of Georgia

3. ARTICLE DESCRIPTION:  
REGISTERED NO. CERTIFIED NO. INSURED NO.  
943027

(Always obtain signature of addressee or agent)

I have received the article described above.  
SIGNATURE  Addressee  Authorized agent  
Mikal C. Shuck

4. DATE OF DELIVERY 6 1977

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

POSTMARK  
SEP 6 1977  
M.D. V. BARK'S INITIALS

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

August 31, 1977

MEMORANDUM TO: CHARLES STEELE  
FROM: MARJORIE W. EMMONS *mwe*  
SUBJECT: MUR 442 (77) - Redrafted Letter

The above-mentioned document was transmitted to the Commissioners on August 30, 1977 at 2:30 p.m.

As of 4:00 p.m., August 31, 1977, no objections have been received in the Office of Commission Secretary regarding the redrafted letter.



7 9 0 1 0 0 0 2 0 5 5

August 30, 1977

MEMORANDUM TO: Marge Emmons  
FROM: Charles N. Steele  
SUBJECT: MUR 442 (77)

Revised letters were circulated to the Commissioners on Friday, August 26, 1977. In accordance with objections received, the attached letter has been redrafted and is to be circulated on a 24 hour no-objection basis.

Attachment

78040052657



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

Robert J. Lipshutz, Esq.  
Treasurer  
Committee for Jimmy Carter  
1600 Pennsylvania Avenue, N.W.  
Washington, D. C. 20500

Re: MUR 442 (77)

Dear Mr. Lipshutz:

This letter is to inform you that the Federal Election Commission has found reason to believe that the Committee for Jimmy Carter violated 2 U.S.C. §§441b and 434(b).

The Commission's determination is based upon accounts of Mr. T. Bertram Lance's press conference on August 18, 1977, the details of which were confirmed in your letter of August 22, 1977. Specifically, the staff of the Committee for Jimmy Carter arranged for the use by candidate James Earl Carter of an airplane owned by the National Bank of Georgia during the primary campaign for the Democratic Nomination for President.

Section 441b of Title 2 of the United States Code prohibits national banks from making contributions or expenditures (including loans) in connection with Federal elections. Furthermore, §441b prohibits candidates and their committees from accepting such contributions or expenditures. Accordingly, use of the National Bank of Georgia airplane under the circumstances described in your letter, even if the costs were later reimbursed, gives the Commission reason to believe that a prohibited contribution has been effected.



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Section 434(b) of Title 2 of the United States Code requires the detailed reporting of receipts and expenditures. Contributions in excess of \$100, including in-kind contributions of goods and services, must be itemized and identified on the appropriate report. Inasmuch as the reports filed by the Committee for Jimmy Carter did not include entries reporting the use by the campaign of the bank's airplane, the Commission has reason to believe that §434(b) has been violated.

You have an opportunity to demonstrate that no action should be taken by the Commission. In order that this matter may be promptly resolved, the Commission requests that you provide to it any further information you deem relevant to this inquiry within ten (10) days of receipt of this letter. Although your letter of August 22 provides information concerning this matter, the Commission requests further data. In particular, the Commission wishes to know the manner in which the per hour flight time costs of each trip were calculated by the Committee. Please provide further details regarding the candidate's political activities during the trips of August 30, 1975, and June 13, 1976.

This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you give the Commission written permission to make this investigation public. If you have any questions concerning this matter, please contact Lester Scall (telephone no. 523-4162), the attorney assigned to this case.

Sincerely yours,

William C. Oldaker  
General Counsel

Charles N. Steele  
Associate General Counsel

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

August 29, 1977

MEMORANDUM TO: CHARLES STEELE  
FROM: MARJORIE W. EMMONS *mwe*  
SUBJECT: MUR 442 (77) - Revised Letters

The revised letters were circulated to the Commissioners on Friday, August 26, 1977. Several objections have been received in the Office of Commission Secretary. Therefore, the letter is not to be mailed in its present form, but redrafted and circulated on a 24-hour No-objection basis.

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FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

Robert J. Lipshutz  
Treasurer  
Committee for Jimmy Carter  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20500

Re: MUR 442 (77)

Dear Mr. Lipshutz:

This letter is to inform you that, based upon accounts of Mr. T. Bertram Lance's press conference of August 18, 1977, and confirmed by your letter of August 22, 1977, the Federal Election Commission has found reason to believe that the Committee for Jimmy Carter violated 2 U.S.C. §§441b and 434(b) in connection with airplane travel on the National Bank of Georgia airplane during the primary campaign for the Democratic nomination for President.

Section 441b of Title 2 of the United States Code prohibits the making and acceptance of contributions or expenditures by national banks, including loans in connection with federal elections. Accordingly, use of the plane for campaign related purposes, even if the costs were later reimbursed, gives reason to believe that a prohibited contribution occurred.

Although your letter of August 22, 1977 provides information concerning this matter, you have an opportunity to demonstrate that no action should be taken by the Commission. In order that this matter may be promptly resolved, it is requested that you provide any further information you deem relevant to this inquiry within 10 days of receipt of this letter.

In addition, it would aid the Commission in its determination of the proper source of repayment for the trips of August 30, 1975, and June 13, 1976, if further details concerning those trips are provided by the committee. Concerning the amounts submitted in your letter of August 22



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to be the costs of the five flights, the Commission requests that you indicate on what basis the figures for cost per hour of flight time were calculated.

We remind you that this matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you notify the Commission in writing. If you have any questions concerning this matter, please contact Lester Scall (telephone No. 523-4162), the attorney assigned to this case.

Sincerely yours,

William C. Oldaker  
General Counsel

Charles N. Steele  
Associate General Counsel

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## FEDERAL ELECTION COMMISSION

1325 K STREET NW  
WASHINGTON, DC 20463

Robert P. Guyton  
President  
National Bank of Georgia  
34 Peachtree at Five Points  
Atlanta, Georgia 30303

Re: MUR 442 (77)

Dear Mr. Guyton:

This letter is to notify you that the Federal Election Commission, based upon information obtained in the ordinary course of its supervisory responsibilities, has found reason to believe that the National Bank of Georgia violated 2 U.S.C. §441b in connection with the use of its airplane by President Carter between August, 1975, and June, 1976, during the Presidential primary campaign.

Provision of the Bank's airplane to the Committee for Jimmy Carter in connection with a federal election campaign is an in-kind contribution prohibited by 2 U.S.C. §441b. This section prohibits the making and acceptance of contributions or expenditures by national banks, including loans in connection with federal elections. Accordingly, use of the plane for campaign related purposes, even if the costs were later reimbursed, gives reason to believe that a prohibited contribution occurred.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Specifically, indicate in your response whether the National Bank of Georgia airplane has a Part 91 or Part 135 certificate from the Federal Aviation Administration.

In order that the Commission may promptly resolve this case, your response should be submitted within ten days of the receipt of this notification.



This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless the Commission receives written authorization to make the investigation public.

If you have any questions concerning this matter, please contact Mr. Lester Scall (telephone No. 202/523-4162), the attorney assigned to this case. If you intend to be represented by counsel in this matter, please have such Counsel so notify us in writing.

Sincerely yours,

William C. Oldaker  
General Counsel

Charles N. Steele  
Associate General Counsel

7304052054



August 26, 1977

MEMORANDUM TO: Marge Emmons  
FROM: Charles N. Steele  
SUBJECT: MUR 442 (77)

Would you please distribute the attached to the  
Commission on a 24 hour no-objection basis.

Attachments

pwb

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FEDERAL ELECTION COMMISSION  
Washington, D. C.

FIRST GENERAL COUNSEL REPORT

MUR NO. 442 (77)

DATE AND TIME OF TRANSMITTAL  
BY OGC TO THE COMMISSION \_\_\_\_\_

DATE COMPLAINT RECEIVED  
BY OGC \_\_\_\_\_

STAFF MEMBER Oliphant

Complainant's Name: Internally generated

Respondent's Name: Committee for Jimmy Carter  
National Bank of Georgia

**EXECUTIVE SESSION**

AUG 1977

Submitted Late

Relevant Statute: 2 U.S.C. §441b

Internal Reports Checked: \_\_\_\_\_ Federal Agencies Checked \_\_\_\_\_

SUMMARY OF ALLEGATION

Newspaper accounts dated August 19, 22, and 23, 1977, confirmed by a letter to William Oldaker dated August 22 from Robert Lipshutz on behalf of the Committee for Jimmy Carter, indicate that President Carter was flown on 5 occasions (and his family on 2 of those (cont.)

PRELIMINARY LEGAL ANALYSIS

Three of the five trips, according to the Committee, were for campaign-related purposes. The letter from Mr. Lipshutz requests advice concerning the proper source of payment for the other two trips, (on which President Carter was accompanied by his family and) which were during the course of the campaign and may be in connection with a federal election. Further details concerning these two trips should be obtained to determine whether they were in fact campaign- (cont.)

RECOMMENDATION

Find reason to believe that the Committee for Jimmy Carter and the National Bank of Georgia violated 2 U.S.C. §441b. Send attached letters.

Date of Next Commission Review:

SUMMARY OF ALLEGATION (cont'd)

occasions) on a plane owned by the National Bank of Georgia during his campaign for the Democratic Nomination for President. These flights occurred on August 30, 1975, October 17, 1975, December 29, 1975, and June 13 and 19, 1976. The National Bank of Georgia was neither paid in advance nor reimbursed for these flights in violation of 2 U.S.C. §441b.

PRELIMINARY LEGAL ANALYSIS (cont'd)

related.

The letter from Mr. Lipshutz indicates that no bills were received from the Bank for these flights. However, the fact of the personal friendship of Mr. Lance and President Carter indicates that the candidate was aware at the time of the flights that the plane was corporate-owned and 2 U.S.C. §441b prohibits corporate contributions. There is, therefore, reason to believe that 2 U.S.C. §441b was violated by the National Bank of Georgia and by the Committee for Jimmy Carter, since an in-kind corporate contribution was made and accepted.

Even if a corporation is eventually repaid, failure to pay in advance for the use of a corporate airplane constitutes a loan to a candidate which would be a corporate contribution at least during the period until reimbursement was made.

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The Committee for Jimmy Carter also has indicated to the Commission that the total cost for all five flights was \$1,793.70, of which they proposed to pay \$1,011.15 out of campaign funds and \$782.55 out of President Carter's personal funds. Although specific information was presented to the Commission concerning the number of hours flown on each trip, there is no indication how the figures for the cost of each flight were calculated. Further information should be requested to determine whether these amounts are adequate.

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UPI, 8-19-7

(MEDIA-LANCE)

(BY JAMES -LURET-)

WASHINGTON (UPI) - BERT LANCE SAID TODAY HE IS NOT ANGRY AT THE MEDIA FOR REPORTING ON HIS CONTROVERSIAL FINANCIAL TRANSACTIONS, BUT SUGGESTED IT IS TIME TO "LAY TO REST" THE ALLEGATIONS.

WITH HIS WIFE LABELLE SITTING IN THE FRONT ROW, LANCE ANSWERED SCORES OF QUESTIONS FROM REPORTERS ON THE CONTENTS OF A LENGTHY, TECHNICAL REPORT ON HIS FINANCIAL DEALINGS ISSUED BY COMPTROLLER OF THE CURRENCY JOHN HEIMANN.

LANCE, A LARGE, GREGARIOUS MAN WHO IS FOND OF SHAKING REPORTERS' HANDS BEFORE SPEAKING IN PUBLIC, WAS ALL BUSINESS WHEN HE TOOK THE PODIUM AFTER A CLOSING INTRODUCTION BY PRESIDENT CARTER, HIS CLOSE FRIEND.

CARTER THANKED LANCE "FOR STANDING FIR" THROUGH DIFFICULT TIMES" (CALLED HIM A "MAN OF COMPETENCE, OF HONESTY, TRUSTWORTHY AND A MAN OF INTEGRITY") THEN CONCLUDED, "BERT, I'M PROUD OF YOU."

LANCE READ A PREPARED STATEMENT SAYING HE CONSIDERING HEIMANN'S REPORT "VERY FAVORABLE". THEN HE EXPRESSED SOME PERSONAL FEELINGS.

"I CANNOT SAY THE LAST FEW WEEKS HAVE BEEN EXACTLY ENJOYABLE TO ME OR MY FAMILY," HE SAID.

"THERE HAVE BEEN, IN SOME INSTANCES, INACCURACIES, BUT I REALIZE THAT IN OUR DEMOCRATIC SOCIETY, GOVERNMENT OFFICIALS AT TIMES COME UNDER POLITICAL AND PUBLIC SCRUTINY. THAT IS PART OF OUR PROCESS. I HAVE NO GRUDGES TO BEAR. I BEAR NO RESENTMENT. I FULLY REALIZE THAT MEMBERS OF THE NEWS MEDIA HAVE A RESPONSIBILITY, AND THEY HAVE CARRIED OUT THAT RESPONSIBILITY."

LANCE, RECOGNIZED AS ONE OF THE MOST ACCESSIBLE OFFICIALS IN THE CARTER ADMINISTRATION, PATIENTLY FIELD A VARIETY OF QUESTIONS DEALING WITH A SUBJECT THAT IS CLOSE TO HEART TO MOST AMERICANS - PERSONAL FINANCES.

HE REPEATEDLY REFERRED TO HEIMANN'S REPORT, HE SHOWED NO SIGNS OF ANGER BUT IN OCCASION, APPEARED TO GROW IRRITATED.

THE ONLY TIME LANCE'S TEMPER APPEARED TO RISE WAS IN RESPONSE TO A QUESTION ABOUT A STATEMENT BY THE NATIONAL BANK OF GEORGIA REPORTING ON THE PART OF USE OF AN INTEREST EARNED BY THE NATIONAL BANK OF GEORGIA

HE REPEATEDLY REFUSED TO GO INTO DETAILS OF THE MATTER, SAYING IT STILL IS UNDER INVESTIGATION BY HEIMANN, BUT HE DID SAY "THE PRESIDENT AT THAT TIME WHO WAS A CANDIDATE AND WHO WAS A FORMER GOVERNOR OF GEORGIA, IF YOU REMEMBER, WAS ALSO A CUSTOMER OF SOME BRANCH OF THE NATIONAL BANK OF GEORGIA."

IT IS FEDERAL FEDERAL LAW FOR A CORPORATION TO MAKE ANY DIFF. WHETHER USE OF USE OF A PRIVATE CORPORATION TO A PRESIDENTIAL CAMPAIGN.

LANCE'S ONLY OTHER MOMENTARY SHOW OF EMOTION CAME WHEN HE WAS ASKED ABOUT HIS OCCUPATION AS BUDGET OFFICER. HE SAID "IF WE HAVE REACHED THE POINT IN THIS COUNTRY WHERE A PUBLIC OFFICIAL CAN BE AS THE MEDIA SOMETIMES REFERS TO AS 'CORRUPTED' OR 'DAMAGED' OR 'REPARABLE' BECAUSE OF ALLEGATIONS THAT ARE MADE AND THAT NOT TO BE TRUSTED THEN I THINK WE'VE GOT SOME 'REAL' PROBLEMS HERE."

THEN HE SUMMARIZED THE MATTER:

"I'VE BEEN THROUGH THE PROCESS OF THESE ALLEGATIONS. I HAVEN'T SUGGESTED TO THAT, I THINK THAT'S A PART OF THE PROCESS. I HAVEN'T SAID THAT I'VE BEEN TREATED UNFAIRLY IN ANY SENSE WHATSOEVER.

"MY FAMILY AND I HAVE HAD THE ATTITUDE THAT THIS WAS A PART OF THE PROCESS, THAT THIS WAS A PART OF WHAT WE WERE WILLING TO GO THROUGH IN REGARD TO PUBLIC SERVICE. I THINK THAT UNDER THOSE CIRCUMSTANCES THAT WE OUGHT TO LAY TO REST THOSE ALLEGATIONS."

APR 08-13 10:14 AM '77

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UPI - 819-77

UP-005

(LANCE FINANCES)

WASHINGTON (UPI) - PRESIDENT CARTER HAS THROWN HIS FULL SUPPORT BEHIND BUDGET DIRECTOR BERT LANCE WHO HAS BEEN CLEARED OF CRIMINAL WRONGDOING IN HIS \$6-MILLION PERSONAL BANK DEALINGS, BUT OTHER SERIOUS QUESTIONS REMAINED UNRESOLVED.

"BERT, I AM PROUD OF YOU," SAID CARTER, WARMLY SHAKING LANCE'S HAND AT THE START OF A 50-MINUTE NEWS CONFERENCE YESTERDAY.

COMPTROLLER OF CURRENCY JOHN HEIMANN SAID IN A LONG REPORT, "WE DO NOT BELIEVE THE INFORMATION DEVELOPED TO DATE IN THE INQUIRY WARRANTS THE PROSECUTION OF ANY INDIVIDUALS."

LANCE WAS GRATIFIED. HE SAID THE REPORT SHOULD PUT TO REST ALLEGATIONS ABOUT HIS PERSONAL FINANCES, AND DECLARED: "I DON'T KNOW OF ANY CIRCUMSTANCES WHERE I'VE DONE ANYTHING IMPROPER OR ILLEGAL, AND I THINK THAT REPORT SAYS THAT."

BUT HEIMANN SAID THERE ARE STILL SOME UNSETTLED ISSUES CONCERNING THE SECOND MOST POWERFUL MAN IN THE ADMINISTRATION WHO IS SOMETIMES CALLED THE "ASSISTANT PRESIDENT", INCLUDING:

- WHETHER LANCE VIOLATED FEDERAL CAMPAIGN LAWS BY ILLEGAL USE OF THE NATIONAL BANK OF GEORGIA'S AIRCRAFT FOR PRESIDENTIAL CANDIDATE JIMMY CARTER.

- WHETHER THE COMPTROLLER'S OFFICE COMMITTED ANY VIOLATIONS IN ITS EARLIER REVIEWS OF LANCE'S FINANCIAL TRANSACTIONS.

SEN. ABRAHAM RIBICOFF, D-CONN., SAID HE EXPECTED HEIMANN TO COMPLETE THE INQUIRY BEFORE TESTIFYING IN THE SENATE GOVERNMENTAL AFFAIRS COMMITTEE SEPT. 7. RIBICOFF'S COMMITTEE CONFIRMED LANCE TO THE BUDGET POST IN JANUARY AND GAVE HIM A "CLEAN BILL OF HEALTH" AFTER A ONE-DAY HEARING A MONTH AGO.

WASHINGTON (UPI) - BUDGET DIRECTOR BERT LANCE'S BANK PROVIDED CORPORATE AIRCRAFT FOR PRESIDENTIAL CANDIDATE JIMMY CARTER'S USE ON FIVE OCCASIONS IN 1975 AND 1976, ACCORDING TO WHITE HOUSE PRESS SECRETARY JOHN POWELL.

BUT POWELL SAID YESTERDAY HE BELIEVES THE CARTER CAMPAIGN REPAYED THE NATIONAL BANK OF GEORGIA FOR USE OF THE PLANE BETWEEN AUG. 30, 1975, AND JUNE 10, 1976.

IT IS A VIOLATION OF FEDERAL LAW FOR A CORPORATION TO CONTRIBUTE CASH OR ANY OTHER ITEM OF VALUE TO A PRESIDENTIAL CAMPAIGN. DISCLOSURE OF THE USE OF THE CORPORATE AIRCRAFT CAME DURING QUESTIONING AT A NEWS CONFERENCE LANCE CALLED AFTER RECEIVING THE CURRENCY COMPTROLLER'S REPORT ON HIS FINANCIAL ACTIVITIES.

COMPTROLLER JOHN HEIMANN SAID INFORMATION DEVELOPED "TO DATE" WARRANTS NO CRIMINAL PROSECUTION, BUT THE COMPTROLLER SAID THE INVESTIGATION OF THE AIRCRAFT'S USE WAS NOT COMPLETE.

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UPI, 8-10-77

(LAW)  
(BY LEONARD CURRY)

WASHINGTON (UPI) - PRESIDENT CARTER USED THE CORPORATE AIRCRAFT OF BUDGET DIRECTOR BERT LANCE'S BANK TWICE DURING HIS PRESIDENTIAL CAMPAIGN, WHITE HOUSE PRESS SECRETARY GUY POWELL SAID TODAY.

IF THERE IS "ANY QUESTION" IT WILL BE OUR INCLINATION TO GO AHEAD AND PAY FOR THE TWO TRIPS AND PAY OTHERS WHO "MIGHT TURN UP," POWELL SAID. "WE'RE ONLY TALKING ABOUT A FEW HUNDRED DOLLARS AT THE MOST," HE ADDED.

IT IS A VIOLATION OF FEDERAL CAMPAIGN FINANCE LAW FOR A CORPORATION TO PROVIDE CASH OR ANY OTHER GIFT OF VALUE TO A PRESIDENTIAL CANDIDATE. BOTH FEDERAL AND SENATE INVESTIGATORS ARE LOOKING INTO ILLEGAL CORPORATE CAMPAIGN CONTRIBUTIONS.

ALTHOUGH THE ISSUE OF THE AIRCRAFT WAS RAISED YESTERDAY, POWELL SAID THE WHITE HOUSE HAD STILL NOT DETERMINED WHETHER THE CARTER CAMPAIGN PAID LANCE'S NATIONAL BANK OF GEORGIA FOR THE FLIGHTS.

POWELL CONFIRMED THAT CARTER WAS A PASSENGER ON THE 496 PLANE FIVE TIMES BETWEEN AUG. 30, 1975, AND JUNE 20, 1976, BUT HE SAID CARTER USED THE PLANE FOR ONLY ONE CAMPAIGN TRIP AND PART OF ANOTHER.

LANCE DECLINED TO DISCLOSE THE AIRCRAFT YESTERDAY AT A NEWS CONFERENCE DEALING WITH THE CONTROLLER OF CURRENCY'S REPORT ON HIS FINANCIAL TRANSACTIONS BEFORE RECEIVING ONE OF THE ADMINISTRATION'S MOST HONORABLE OFFICIALS.

LANCE FLEW TO ATLANTA FOR A SHORT WEEKEND AT HOME BEFORE RETURNING TO WORK AT THE WHITE HOUSE OFFICE OF MANAGEMENT AND BUDGET ON MONDAY, AN ADMINISTRATION SPOKESMAN SAID.

THE CONTROLLER'S REPORT SAID LANCE COMMITTED NO CRIMINAL OFFENSES AS A PRIVATE BANKER DURING THE PAST TWO YEARS, BUT IT SAID WHEN LANCE WAS PRESIDENT OF THE FIRST NATIONAL BANK OF CALIFORNIA SA, HE OVERPAID CALIFORNIA AND MEXICAN BANKING PRACTICES IN THE FORM OF \$450,000 IN BENEFITS TO HIS FAMILY.

SEN. ROBERT DOLE, R-KAN., CALLED FOR A "PREFERRENTIAL REPUBLICAN" TO PREPARE FOR NEXT MONTH'S HEARINGS IN THE CONTROLLER OF CURRENCY'S REPORT ON LANCE.

DOLE SAID THE SENATE GOVERNMENT AFFAIRS COMMITTEE, WHICH HAS HEARD LANCE TWICE IN SIX MONTHS, WILL UNDERTAKE NO FURTHER INVESTIGATION OF ALLEGED IMPROPRIETIES.

DOLE SAID THE ADMINISTRATION WOULD NOT GET IN ITS WAY TO BE COOPERATIVE WITH THE SENATE HEARINGS.

DOLE SAID IT LOOKS "PRETTY OBSCURE" THAT TWO TRIPS CARTER TOOK ON THE PLANE OWNED BY THE NATIONAL BANK OF GEORGIA WERE CAMPAIGN TRIPS.

DOLE SAID A BRIEFING ON HIS OFFICE AT 11:30 AM AND LONGER THAN HE WOULD BE ABLE TO FIND OUT OF THE AIRCRAFT TRIPS, BUT IF ANY INFORMATION IS "GIVEN" HE WILL BE TOLD OF IT. LANCE WOULD FLY AND HE SAID THE BILLS WOULD BE PAID FROM CAMPAIGN FUNDS.

DOLE SAID LANCE HAD

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*The Washington Post, 8-19-77*

## President Dramatically Endorses OMB Director

By Edward Walsh  
Washington Post Staff Writer

President Carter yesterday tore it to the door on the investigation into the personal financial affairs of his close friend and budget director, Bert Lance, calling Lance "a man of complete integrity" who enjoys "my complete confidence and support."

In a gesture designed to symbolize support, the President flew by helicopter from Camp David, Md., yesterday afternoon to introduce Lance to the news conference concerning the comptroller's report on the currency Lance had filed.

"My faith in the character and competence of Bert Lance has been reinforced," Carter said. "I see no other conclusion that can be drawn from by objective analysis of these findings."

Carter said flatly that Lance would continue on the job.

It was a dramatic endorsement of the beleaguered Lance in which the President put a great deal of his own prestige behind the budget director's integrity and continued ability to function effectively in government.

But while the President, Lance and White House aides said they thought the comptroller's report released yesterday

settled the major question concerning Lance's financial dealings, that was not the initial reaction from congressional Republicans.

Sen. Charles H. Percy (R-Ill.), ranking minority member on the Senate Governmental Affairs Committee, said the report "does not address several significant aspects of Mr. Lance's financial activities, and questions of impropriety are raised in the report."

Sen. Bob Dole (R-Kan.) said the report "raises many new questions while answering few" and added: "It

See RESPONSE, A3, Col. 1

THE WASHINGTON POST Friday, August 19, 1977

# President Carter Dramatically Endorses His OMB Director

RESPONSE, From A1

is hard to conclude that Mr. Lance acted properly in all situations."

The Governmental Affairs Committee included hearings Sept. 7 and Sept. 14. It has called for testimony from Sen. John C. Stennis (Miss.) and others.

At the hearing, the Senate Banking, Finance and Urban Affairs Committee is considering holding hearings on the House Banking Subcommittees' study of it in connection with hearings next month on bank insurance requirements. So the affair is not to be a private, at least for a while.

Lance prepared a statement, which he read at the press conference. Lance said Carter sought to put a cap on the investigation, and to the condition that he would leave the job as director of the Office of Management and Budget.

"Regarding the comptroller's report, I am very favorable," Lance said.

"As far as I am concerned, I intend to continue with these OMB responsibilities, and I am confident that I

can effectively carry out my ability to carry out my job has not been damaged. In this regard, I deeply appreciate the confidence which the President has expressed in me."

Lance stressed that all allegations such as those contained in recent days newspapers, including at his home and in his office, are in bad shape in his eyes.

The President's flight from Camp David to Camp Carter's personal helicopter was decided on late yesterday morning in a telephone conversation among Carter, his chief political adviser, Hamilton Jordan, White House press secretary Jody Powell and White House counsel Robert F. Abt.

According to Powell, White House officials first received the report Wednesday night. Later that night, Powell discussed it by telephone with the President, who has been vacationing at Camp David since Monday.

Carter got the report early yesterday morning, also after reading it and talking with his aides. He decided on the issue that night and prepared a show of support for Lance.

Saying that few others had been through "such an extensive and detailed investigation of their personal and business affairs," the President thanked Lance "for standing firm through difficult times" and for conducting himself "as a gentleman and as a man of complete integrity."

"What is important," Carter said, "is that Bert Lance is a man of competence, of honesty, trustworthy and a man of integrity, and that his services to this country can and should continue. Bert Lance enjoys my complete confidence and support. I am proud to have him as part of my administration."

After declaring that the report "has answered questions that were raised against Bert Lance," the President turned to leave without taking questions, and said, "Bert, I'm proud of you."

Carter, who spent 90 minutes in Washington, returned immediately to Camp David, accompanied by another old friend, Atlanta lawyer Charles Kirbs.

Powell said that, assuming the report would be favorable, it was always

planned that the President would make a show of support for Lance when it was released.

"Friendship and that sort of stuff aside, someone should not be run out of government because allegations were made," Powell said. "That is the reason a strong statement was necessary here."

Powell said that Carter's strong public backing of Lance was not an attempt to halt further inquiries into his financial dealings. "But the main questions, it seems to me, have been laid to rest," he said.

Jordan said, "The comptroller cleared him. The President said Bert has his confidence. I can't imagine that several more weeks [of hearings and investigation] would compel him to leave or compel us to suggest that he leave."

Both Powell and Jordan said they saw no risk of embarrassment to Carter from possible further revelations concerning Lance's financial activities.

The President has a particularly high stake in this, not only because of his close relationship with Lance, but because of the high ethical standards

he has set for his administration. Carter's image as a man of integrity, presiding over an "open administration," is viewed by his advisors as his single most precious political commodity.

At the news conference, which was also attended by his wife, LaBelle, Lance said it would be inappropriate for him to comment.

Lance said Powell said that NIG records showed five flights on the plane by Carter. Three of them were personal trips. The other two—in August, 1975, and October, 1975—may have involved some campaign activity, he said.

Powell said officials were still checking whether they were political flights and, if so, whether NIG was reimbursed for use of the plane by the Carter campaign. Failure to reimburse the bank in such a case could be a technical violation of the federal flight law.

Lance said that at no time during the weeks of controversy surrounding his finances did he offer to resign.

"I told the President that whenever it appeared I was not doing the kind of job he wanted me to do, all he had to do was tell me," he said.

ence did Lance refuse to answer a question. That was when he was asked whether Carter, as a candidate, had ever been flown on the corporate aircraft of the National Bank of Georgia, then headed by Lance. Since use of the aircraft is still being looked into, Lance said it would be inappropriate for him to comment.

Lance said Powell said that NIG records showed five flights on the plane by Carter. Three of them were personal trips. The other two—in August, 1975, and October, 1975—may have involved some campaign activity, he said.

Powell said officials were still checking whether they were political flights and, if so, whether NIG was reimbursed for use of the plane by the Carter campaign. Failure to reimburse the bank in such a case could be a technical violation of the federal flight law.

Lance said that at no time during the weeks of controversy surrounding his finances did he offer to resign.

"I told the President that whenever it appeared I was not doing the kind of job he wanted me to do, all he had to do was tell me," he said.

Only once during the press confer-

UPT, 8-19-77

9-187

(PLANE-LANDE)  
(BY LEONARD DERRY)

WASHINGTON (UPI) - BUDGET DIRECTOR BERT LANDE'S BANK PROVIDED ITS PRIVATE AIRCRAFT FOR PRESIDENTIAL CANDIDATE JIMMY CARTER'S USE ON FIVE OCCASIONS IN 1976 AND 1977, WHITE HOUSE PRESS SECRETARY JUDY ROBEILL SAID TODAY.

ROBEILL SAID HE BELIEVES THE CARTER CAMPAIGN REPAID THE NATIONAL BANK OF GEORGIA FOR USE OF THE PLANE.

~~IT IS A VIOLATION OF FEDERAL LAW FOR A CORPORATION TO CONTRIBUTE TO OR BE IN CONTROL OF FEDERAL CAMPAIGN OR A PRESIDENTIAL CAMPAIGN.~~

DISCLOSURE OF THE USE OF THE CORPORATE AIRCRAFT CAME DURING QUESTIONING AT A NEWS CONFERENCE LANDE CALLED AFTER RECEIVING THE CURRENCY CONTROLLER'S REPORT ON HIS FINANCIAL ACTIVITIES.

THE CONTROLLER SAID LANDE MADE NO CRIMINAL INFRACTIONS WHEN HE WAS PRESIDENT OF NBS AND EARLIER AT THE NATIONAL BANK OF GEORGIA.

BUT THE CONTROLLER SAID THE CAMPAIGN WAS CONTINUING ON THE QUESTION OF HOW THE NBS AIRCRAFT WAS USED.

ROBEILL SAID HE BELIEVES THAT THE NATIONAL BANK OF GEORGIA WAS NOT ADEQUATELY CONTROLLED THE ACCOUNTS RELATING TO OWNED OR LEASED AIRCRAFT IN THE PERIOD FROM FEBRUARY 1976 TO THE PRESENT, THE REPORT SAID.

LANDE REQUESTED ACCESS TO ALL INFO DETAILS OF THE MATTER, SAYING IT WILL BE UNDER INVESTIGATION BY THE CONTROLLER'S OFFICE.

HE SAID THE NATIONAL BANK OF GEORGIA WAS A CORPORATION AND WAS A MEMBER OF THE BOARD OF DIRECTORS OF THE NATIONAL BANK OF GEORGIA.

ROBEILL REPORTED HE SAW LANDE AS A CUSTOMER OF A CORPORATION IN 1976.

LANDE SAID HE INTERVIEWED ROBEILL, BUT I DON'T THINK IT WOULD BE APPROPRIATE FOR ME TO COMMENT ON HIS REPORT OF THIS MATTER.

HE SAID THE CONTROLLER HAS SAID HE IS CONTINUING THAT, AND THAT HE HAS SAID THAT SPECIFICALLY THAT IN THE PAST HE WOULD BE THAT PART OF IT WAS UNDER DISCUSSION IT WOULD BE APPROPRIATE FOR ME TO COMMENT.

LANDE SAID CARTER USED THE PLANE FIVE TIMES DURING THE TWO YEARS HE WAS A CANDIDATE.

BY LEONARD DERRY

78040052671

# Lance Cleared in U.S. Investigation Into Finances; Carter Defends Aide

Continued From Page Three

age." An April 24 "interoffice letter" from the officer also referred to "20% of facility."

On May 14, David W. Graves, a Citibank account officer, wrote a memo stating that he had met with Travis Hammer, account officer at Manufacturers Hanover, at the Georgia bankers convention. "Discussed the purchase of NBG by Bert Lance," Mr. Graves wrote. "MHT has financed the purchase and will get the NY correspondent relationship. Final arrangements should be complete by the end of May."

But in sworn testimony taken by the Comptroller's office during its investigation, Mr. Lance, Betsy Jo Wiener and other Manufacturers Hanover officials insisted that the documents didn't mean what they appeared to mean—that National Bank of Georgia didn't establish a correspondent account simply to enable Mr. Lance to obtain his \$2.8 million loan.

**Never Discussed Any 20%**

On Aug. 5, Mr. Lance told investigators, "We never discussed any 20% or anything like that. . . . no mention made of compensating balances, of a percentage relationship or anything of that type." And the Budget Director's attorney, Alexander Smith, added: "There was no agreement. We can't help it what they put on the internal papers what they anticipate the balance will be. But it was expressly not a condition on their own internal papers."

Betsy Jo Wiener said under oath on Aug. 8 that "since 10% is a traditional compensating balance received for a loan, we plugged in 10%—I plugged in 10%, thinking of an overall relationship that we hoped to have one day."

In another key section of the report, the Comptroller generally didn't fault Mr. Lance's conduct in obtaining a \$2.8 million loan from First National Bank of Chicago last Jan. 7. Mr. Lance got the loan only a month after National Bank of Georgia opened a correspondent account with the Chicago Bank, and a Washington Post story implied that he had received the loan at favorable terms in return for the Georgia Bank's business.

Mr. Lance needed the money because he had promised Manufacturers Hanover that he would repay its earlier loan if he left National Bank of Georgia. So, when President-elect Carter proposed to name his old friend director of the Office of Management and Budget, Mr. Lance turned to the Chicago Bank. He used about \$2.8 million from the First National loan to repay Manufacturers Hanover, and the other \$60,000 to pay off various other debts.

**First National Loan**  
Under terms of the First National loan, Mr. Lance was to put up about \$2.8 million in collateral, most of it in National Bank of Georgia holdings. In March of this year, the report says, First National found that Mr. Lance's wife LaBelle hadn't signed over her

rights to the pledged stock; at that point, the bank estimated the collateral on the loan to be just \$113,000. By July, however, the problem had apparently been resolved, and the bank valued the collateral at \$2.9 million.

According to the report, Mr. Lance borrowed the money from First National at 2.75 of a percentage point above the prime rate, the rate that banks charge their best corporate customers. Since other loans similar to the original terms of Mr. Lance's agreement carried rates of between 0.25 and 0.75 of a point above prime, the Comptroller concluded, Mr. Lance's terms weren't "more favorable than terms offered to other borrowers."

The Comptroller's report added that investigators didn't find any records indicating that Mr. Lance discussed his personal banking needs while arranging for National Bank of Georgia's correspondent account. Indeed, some First National memos specifically state that "no compensating balance was expected," the report said. So, in language echoing other parts of the report, the Comptroller concluded that "there appears to be no violation" of laws or regulations "on the basis of information currently available."

The report was highly critical of Mr. Lance's personal dealing with the First National Bank of Calhoun, Ga., which he formerly headed.

Specifically, the report accused the Calhoun bank of "unsafe and unsound banking practices" in allowing Mr. and Mrs. Lance, their children and other relatives to overdraw their checking accounts to the tune of hundreds of thousands of dollars.

The Comptroller found, for instance, that Mrs. Lance's account was overdrawn generally in the \$200 to \$10,000 range between September and December 1974. Nine Lance relatives were overdrawn by a total of \$200,000 to \$400,000 during the period of September 1974 to April 1975. After the Comptroller complained in late 1975, the report says, the practices were stopped. Mr. Lance said at his news conference yesterday that "I regret very much that it—the overdraws—happened, although he denied any impropriety in the matter."

The report also reviewed the financial problems of Mr. Lance's unsuccessful 1974 race for governor of Georgia, and found that Mr. Lance's campaign account was overdrawn up to \$76,000 at times. After an investigation in 1975, the Comptroller's office turned the matter over to the Justice Department for possible criminal prosecution. But Mr. Lance said at his press conference that there was no prosecutable offense in the matter, and indeed the Justice Department never filed charges. Eventually, the Calhoun Bank's directors agreed to a written agreement with the Comptroller to stop the practice.

The report also contended that Mr. Lance didn't disclose to various regulatory agencies, and to his own fellow directors at the Calhoun and Atlanta banks, the extent of his borrowings. Federal laws require such disclosures, but the Comptroller said Mr. Lance failed to report fully all loans he obtained between 1971 and this year. In most cases, the report said, he made an incomplete reporting, only five loans were adequately reported in compliance with the law.

Mr. Lance was still an executive officer with the banks, the normal action of this office would be to direct that the records be filed forthwith," the Comptroller said.

The report said Mr. Lance also failed to report some outside business interests as he was required to do. But as the law governing such disclosures is "vague and complex," the Comptroller said, his office can't conduct that kind of an inquiry into the records of the banks.

A top White House aide said the key factor currently is whether the press, in pursuing the questions raised by the report, goes on to raise completely new questions about Mr. Lance's past dealings. "Assuming there are no fundamentally new disclosures, the feeling is that we can ride this out," the aide said.

Although the President didn't decide to join the Lance press conference until sometime yesterday morning, White House confidence had been slowly rising for almost a week. The upswing began last Friday, when White House aides note with relief that the flood of new press allegations was tapering off.

"Our feeling was that if they (the Comptroller's office) had anything more, they'd have leaked it," the aide said. "And that if that was all they had, Bert deserved our support."

**Hands-Off Approach**

Although the White House maintained a hands-off approach to the Comptroller's on-going investigation, Mr. Carter's top political adviser, Hamilton Jordan, kept in close contact with Mr. Lance. Mr. Jordan questioned Mr. Lance himself, although another White House man indicated that the questioning might have been all that intense.

There is a feeling that Bert is, above all, loyal, and that if there was anything wrong, he'd tell us," the aide said. "So there was no need to cross-examine him."

At yesterday's press conference, the President thanked Mr. Lance for "standing firm through a difficult time" and praised him as "a gentleman and a man of complete integrity, . . . competence, . . . and honesty," Mr. Carter concluded.

"As far as I'm concerned, as President, the intense investigation and the Comptroller's report has answered questions that were raised against Bert Lance."

Mr. Lance then took over, declaring that he considers the Comptroller's report to be "very favorable" and that he intends to stay on as Budget Director. "I feel strongly that if allegations such as those raised in recent days can impede a person's ability to carry out his or her job, then we are in bad shape in our country," he said.

At one point during the press conference, Mr. Lance declined several times to answer a question about whether Mr. Carter ever used the corporate surpluses of the National Bank of Georgia during his long presidential campaign. Mr. Lance maintained it wasn't appropriate to answer that question, because the Comptroller still is investigating the use of the surpluses.

However, presidential spokesman Jody Powell later said that Mr. Carter may have used the surpluses or twice for campaign-related costs. He said the White House was checking on whether the bank was reimbursed.

78040052075

# Lance Is Cleared in Government Probe Into Finances; Carter Embraces His Aide

By WALL STREET JOURNAL Staff Reporter  
WASHINGTON—A government investigation into Bert Lance's financial affairs found no cause for prosecution, and President Carter immediately embraced his beleaguered Budget Director.

"My faith in the character and competence of Bert Lance has been reconfirmed," declared the President, who interrupted a Camp David vacation to helicopter into town for a surprise appearance with Mr. Lance at a nationally televised news conference yesterday afternoon. The President said Mr. Lance's government service "can and should continue" and added emotionally: "Bert, I'm proud of you."

The President thus committed his own credibility and prestige to the defense of Mr. Lance, a fellow Georgian and close personal friend—a high-risk gamble that could yet backfire. Although this decision left some Carter administration officials aghast, a top White House aide called it only the beginning of "a real strong" effort by the Carter inner circle to "get behind Bert."

The presidential endorsement came only three hours after the Comptroller of the Currency's report on Mr. Lance's financial dealings was made public on Capitol Hill. Comptroller John Hermann declared: "We don't believe the information developed to date in the inquiry warrants the prosecution of any individuals."

However, the report did raise numerous questions about Mr. Lance's banking activities, enough to keep the controversy alive for weeks to come. And although Mr. Lance chose to interpret it as a "very favorable report on my activities," his own press conference quickly entangled him in detailed and difficult questions.

### Three Main Points

The Comptroller's report deals with Mr. Lance's activities as head of the Calhoun State First National Bank and then as president of National Bank of Georgia in Atlanta.

After concluding that prosecution isn't warranted, the Comptroller made three other main points in his summary letter:

—Mr. Lance's "recurring pattern of juggling bank relationships and personal borrowing needs raises unresolved questions as to what constitutes acceptable banking practice." The Comptroller said he will address the question of whether banking regulations should be amended to require public disclosure of such practices or other remedial action.

—The report "recites that the management of the Calhoun First National Bank from 1972 to 1975 permitted officers, directors and some employees and their families to overdraw checking accounts in substantial amounts for considerable periods of time." And in the case of the Lance-for-Governor campaign account, "the facts were re-

ferred" to the Justice Department, which decided against prosecution.

—Mr. Lance failed to "file with the banks of which he was an officer certain reports of outside business interests and personal borrowing and of borrowing by his affiliates as required by statute or regulation."

The Comptroller's report was sent to Sen. Abraham Ribicoff, the Connecticut Democrat who chairs the Senate Governmental Affairs Committee. The panel held confirmation hearings on Mr. Lance's nomination last January and only last month gave the Budget Director a clean bill of health after new questions were raised about his financial affairs.

Yesterday, Mr. Ribicoff withheld any judgment, declaring only that his committee plans to hold another round of hearings into the Lance affair on Sept. 7 and 8. A House banking subcommittee will also be getting into questions raised by the Lance controversy in hearings next month.

Moreover, the Comptroller said his inquiry isn't complete yet. Still to come is a report on allegations that Mr. Lance may have misused corporate funds; and the results of a separate Internal Revenue Service investigation into whether the Comptroller's office itself has been sufficiently vigilant in past monitoring of Mr. Lance's banks.

So, it seems most unlikely that the controversy surrounding Mr. Lance will be quickly, despite the fervent hopes of the President, the Budget Director and other senior administration officials that yesterday's report would end the matter.

### A \$25 Million Loan

The longest section of the Comptroller's report, which is two and one-half inches thick, is devoted to the circumstances under which Mr. Lance obtained a \$25 million loan from Manufacturers Hanover Trust Co. in June 1975 when he was president of National Bank of Georgia. Mr. Lance used the loan to purchase 184,118 shares of National Bank stock.

At almost precisely the time the loan was

being made, the Atlanta Bank was moving its large, noninterest-bearing correspondent banking account in New York from Citibank to Manufacturers Hanover. And the sequence of events has raised questions of whether the Atlanta bank's funds were being used for Lance's personal benefit.

After his investigation, Currency Comptroller Hermann concluded:

"There is some documentary and circumstantial evidence suggesting the possibility that a compensating balance from NBTG (National Bank of Georgia) was a condition of the loan to Mr. Lance from MHT (Manufacturers Hanover). However, all the documents involved denied under oath (A) that such an arrangement existed and (B) that such an arrangement was ever discussed."

"Based upon the information available to the office of the Comptroller of the Currency at this time, evaluated in the light of the uncontroverted testimony, there appears to be no violation of any applicable laws or regulations relating to national banks."

Four documents included in the Comptroller's report appear, on the surface, to be damaging to Mr. Lance's case.

### Credit Memorandum

On April 15, 1975, a credit memorandum written by Thomas A. Gerwin, a Manufacturers Hanover vice president, after a visit by Mr. Lance stated: "Citibank is currently the National Bank of Georgia's principal New York correspondent, and although it wasn't promised to us today, one would assume that should we make this loan we would undoubtedly be receiving significant

new business from the bank."

Then on April 21, a memorandum by another Manufacturers Hanover vice president, Betsy D. Wiener, concerning the Lance loan stated: "Balances of 10% of the facility will be maintained in a National Bank of Georgia account, and we anticipate in addition having all the New York activity for the bank flow through this account pending balances up to \$1 million on a monthly aver-

Please Turn to Page 10 Column 1

*over* →

73040052075

# Carter to Pay For Flights in Bank's Plane

By Edward Walsh  
Washington Post Staff Writer

President Carter will reimburse the National Bank of Georgia—from both campaign and personal funds—for the cost of five flights Carter took in 1975 and 1976 on NBG's corporate airplane, White House press secretary Jody Powell said yesterday.

The total cost of the flights was \$1,733. At least \$563 of that amount will be reimbursed from Carter campaign funds, and the remainder from the President's personal funds, Powell said.

Questions about Carter's use of the NBG plane arose in connection with the comptroller of the currency's investigation into the personal financial dealings of budget director Herb Lance.

Lance was asked at a press conference last week whether Carter had ever used the plane. He replied that since use of the plane was still being investigated, it would be inappropriate for him to comment.

However, Powell later said that bank records showed five flights by Carter on the plane. He said officials were checking to determine whether the flights were for campaign purposes and, if so, whether the bank was reimbursed for use of the plane.

The federal election law requires such a reimbursement for campaign flights on private aircraft.

Yesterday, Powell said the records show that two flights—in October, 1975, and December, 1975—were for campaign purposes. The \$644 cost of these flights will be reimbursed from campaign funds, he said. In addition, a third flight in August, 1975, was probably for campaign purposes. Reimbursement for its \$490 cost will come partially from campaign funds and partially from personal funds, Powell said.

The President's other two flights on the NBG plane occurred in June, 1976, between Americus, Ga., and Sea Island, Ga. Powell said the White House has asked the Federal Election Commission to determine how much of the \$653 total cost of those flights should be reimbursed from personal funds.

Earlier the FEC gave the Carter campaign permission to retain \$25,000 in public campaign funds to handle such situations, Powell said.

The press secretary said the fact that none of the flights were reimbursed initially was an oversight, and that a separate attempt to circumvent the election law. But he was unable to explain how Carter came to take the five flights on the corporate plane, and brushed aside as "off the wall" conclusions and questions that the flights never intended to be reimbursed. He offered the plane to Carter because of his "friendship and alliance."

Carter will reimburse National Bank of Georgia for five flights on the bank's private plane during 1975 and 1976. A spokesman said the \$1,733 will come from the President's personal funds and from federal money received under the campaign financing law.

Wall Street  
Journal

8/23/77

Wash.

Post 8/23/77

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# Aide Cites an 'Oversight' by Carter Over Free Trips on a Lance Plane

By CHARLES MOHR

Special to The New York Times

WASHINGTON, Aug. 22—The White House said today that the Georgia bank, Bank of Georgia, of which he was chief executive officer, to omit billing the Carter-Lance campaign for the flights. According to Mr. Powell, Mr. Lance said that some of the flights were paid for by the bank in 1975 and 1976, one in Mr. Carter's campaign schedule. Powell had said the campaign organization would be responsible for letting Mr. Lance know how payment should be handled.

At a White House briefing earlier in the afternoon, Mr. Powell said that the cost of the flights was \$1,791.70. He said all of this would be reimbursed to the National Bank of Georgia, some from campaign funds, some from the President's own pocket.

Mr. Powell said Mr. Carter took five flights in the bank's eight-seat Beechcraft plane from Aug. 20, 1975 to June 19, 1976. All of the flights were to points in Georgia, he said, except for a stop in Copper Hill, Tenn., on the first flight.

Mr. Powell said the White House had "determined" that the first three flights were largely related to Mr. Carter's campaign for the Democratic Presidential

New York Times  
8/23/77

## New Questions Are Raised

Mr. Powell said the failure to pay the bank earlier had been the result of a "bookkeeping oversight" by campaign officials. However, by saying it had determined that some of the flights were campaign trips, the White House appears to have raised new questions about Mr. Lance, and to have drawn Mr. Carter deeper into controversy surrounding Mr. Lance.

It is illegal for a corporation to make a campaign contribution "or expenditure" on behalf of a candidate in a Federal election and for the candidate to "knowingly accept" such a contribution.

Mr. Powell denied today that the President, Mr. Lance or the Carter for President campaign committee had been guilty of any violation of the law or impropriety, attributing the failure to pay earlier solely to an "unintentional oversight."

"We accept the responsibility for not paying for the flights or reporting them as required by law," the press secretary said.

Mr. Powell, in a telephone interview this evening, said Mr. Lance had told him

Continued on Page 22, Column 1

# AIDE CITES OVERSIGHT IN TRIPS BY CARTER

Continued From Page 1

nomination. The \$365.50 payment for these flights, he said, will be paid from a fund of \$25,000 retained by the Carter organization for delayed campaign expenses.

## Commission's Advice Sought

The last two flights, to the resort area of Sea Island, Ga., in 1976, appeared to be vacation trips. But because controversies on the campaign ensued at Sea Island, the President asked that the Federal Election Commission give "advice" on whether these were campaign flights. If the commission decides that they were, then the reimbursement will come from the campaign treasury; if not, Mr. Carter will pay out of pocket.

Mr. Powell said it was clear that Mr. Lance had a "charter" from the bank to use the aircraft for business purposes and that this was legitimate for Mr. Carter to make non-campaign flights without paying because he was a customer of the National Bank of Georgia. Mr. Carter has assets amounting to almost \$9 million in Mr. Lance's bank.

However, Mr. Powell said the President had decided that to avoid any questions he would personally reimburse the bank for the flights that was not possible until the end of 1976. Mr. Powell said at another point in the press conference he would be asked to report whether the flights were

## An Oversight, Powell Says

The press secretary expressed the hope that the White House had been "informed" of the flights by the Carter for President campaign committee because there had been no attempt to break the law. Mr. Powell said the Carter for President campaign committee had been told that the flights were not campaign trips. Mr. Powell said that the White House had been told that the flights were not campaign trips. Mr. Powell said that the White House had been told that the flights were not campaign trips.

ported last week that he had uncovered no evidence about Mr. Lance's banking and loan practices that warranted prosecution, adding that the matter was continuing into some aspects of earlier investigations by Federal officials.

The Federal Election Commission, in a regulation promulgated last April, said that political flights on corporate or union-owned aircraft must be paid for in advance. This regulation, however, was not in effect when Mr. Carter flew on the bank's plane.

However, Mr. Carter's campaign organization was obligated to make reimbursement, and Mr. Lance's bank was prohibited from offering free flights in connection with the campaign.

Mr. Powell said Mr. Lance had told him that he had raised the question of the flights with campaign officials before the Carter for President campaign committee. Mr. Powell said that Mr. Lance had been responsible for letting them that the flights were not campaign trips.

Mr. Powell said that the White House had been told that the flights were not campaign trips.

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UP-116

(CARTER)

(BY WISLEY PEPPER)

WASHINGTON (UPI) - PRESIDENT CARTER ACCEPTS RESPONSIBILITY FOR FIVE TRIPS ON A PLANE OWNED BY BERT LANCE'S ATLANTA BANK AND WILL PAY \$1,790 IN REIMBURSEMENT, THE WHITE HOUSE SAID TODAY.

WHITE HOUSE PRESS SECRETARY JUDY POWELL SAID CARTER DID NOT INTEND TO VIOLATE FEDERAL CAMPAIGN LAW.

ALL FIVE TRIPS WERE IN 1975 AND 1976. POWELL SAID THREE WERE RELATED TO THE PRESIDENTIAL CAMPAIGN. THE FEDERAL ELECTION COMMISSION HAS BEEN ASKED TO DECIDE WHETHER THE OTHER TWO SHOULD BE PAID OUT OF PERSONAL OR CAMPAIGN FUNDS.

THE PLANE WAS OWNED BY THE NATIONAL BANK OF GEORGIA. LANCE, NOW CARTER'S BUDGET DIRECTOR, WAS PRESIDENT AT THE TIME. THE FLIGHTS WERE DISCLOSED IN THE COMPTROLLER OF THE CURRENCY'S REPORT ON LANCE'S MULTI-MILLION DOLLAR PERSONAL FINANCIAL DEALINGS.

IT IS A VIOLATION OF FEDERAL LAW FOR A CORPORATION TO CONTRIBUTE TO A PRESIDENTIAL CAMPAIGN IN CASH, TRANSPORTATION, HOUSING OR ANY OTHER FORM OF GIFTS.

"WE ACCEPT THE RESPONSIBILITY FOR NOT PAYING FOR THEM," POWELL SAID. "IT WAS NOT INTENTIONAL ON OUR PART."

IN A LENGTHY NEWS BRIEFING, REPORTERS PRESSED POWELL ON THE QUESTION OF LEGALITY. "IT IS AN OVERSIGHT IN CAMPAIGN BOOKKEEPING OF WHICH THERE ARE MANY IN OURS AND IN OTHERS. WE HAVE MADE AND WILL CONTINUE TO MAKE A GOOD FAITH EFFORT TO DEAL WITH THOSE OVERSIGHTS WHEN THEY COME UP," POWELL SAID.

"IF YOU WISH TO MENTION AN UNINTENTIONAL FAILURE TO REIMBURSE IN ABOUT A THOUSAND DOLLARS WORTH OF EXPENDITURES OUT OF 400 OR 500 MILLION DURING THOSE TWO YEARS CONSTITUTES A VIOLATION OF THE LAW, THEN SO BE IT."

POWELL SAID THE CARTER CAMPAIGN MADE REIMBURSEMENTS OF \$150,000 FOR OTHER CHARTERED FLIGHTS. HE SAID "TO THE BEST OF OUR KNOWLEDGE" THERE WERE NO OTHER FLIGHTS THAT WERE NOT REIMBURSED.

ASKED IF CARTER WERE DISTURBED ABOUT THE DISCLOSURE, POWELL REPLIED "NO, NOT PARTICULARLY."

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7-176

(CARTER)

(BY WESLEY RIPPERT)

WASHINGTON (UPI) - PRESIDENT CARTER WILL REIMBURSE BERT LANCE'S ATLANTA BANK FOR THE COST OF FIVE FLIGHTS ON A CORPORATE PLANE IN 1975 AND 1976, THE WHITE HOUSE SAID TODAY.

THREE OF THE TRIPS WERE RELATED TO CARTER'S PRESIDENTIAL CAMPAIGN AND WILL BE PAID OUT OF CAMPAIGN FUNDS, WHITE HOUSE PRESS SECRETARY JOEY POWELL SAID. THE FEDERAL ELECTION COMMISSION HAS BEEN ASKED TO RULE WHETHER THE OTHER TWO INVOLVE PERSONAL EXPENSES OR CAMPAIGN MONEY.

FEDERAL LAW BARS POLITICAL CANDIDATES FROM ACCEPTING CORPORATE CONTRIBUTIONS. POWELL DEVED THAT CARTER VIOLATED THE CAMPAIGN FINANCING LAW IN TAKING THE TRIPS.

POWELL SAID THE FAILURE TO PAY LANCE'S NATIONAL BANK OF GEORGIA AT THE TIME WAS "UNWARRANTED". THE FLIGHTS WERE DISCLOSED IN THE CONTROLLER OF THE CURRENCY'S REPORT LAST WEEK ON LANCE'S PERSONAL FINANCIAL DEALINGS.

THE FLIGHTS INCLUDED:

- FEB. 30, 1975, FROM AMERICUS, GA., TO DALTON, GA., TO COPPER HILL, TENN., TO ELLIJAY, GA., TO SEA ISLAND, GA. TOTAL COST: \$490.50.

THE AMERICUS TO ELLIJAY PORTION WAS DETERMINED TO BE A CAMPAIGN TRIP AND THIS SHOULD BE REIMBURSED FROM CAMPAIGN FUNDS; \$420.50. CARTER WILL REIMBURSE \$70.

- MAR. 27, 1975, ATLANTA TO DALTON, GA., FOR MR. SPARBELY ATTENDED FUND-RAISER AND RETURN. TOTAL COST: \$454.00, ALL FROM CAMPAIGN FUNDS.

- FEB. 29, 1975, AMERICUS TO ATLANTA AND RETURN. TOTAL COST: \$450.00, ALL FROM CAMPAIGN FUNDS.

- JUNE 10, 1975, AMERICUS TO SEA ISLAND, WHERE CARTER SPENT A WEEK RESTING AND CONFERING WITH AIDES AFTER PRIMARY ELECTIONS. \$290.00. WHITE HOUSE ASKED ROBERT LIPSHUTZ TO ASK THE FED WHETHER THIS WAS A PERSONAL OR CAMPAIGN EXPENSE.

- JUNE 19, 1975, RETURN FROM SEA ISLAND TO AMERICUS. \$85.00. LIPSHUTZ ALSO IS ASKING FOR FED ADVICE ON THIS ONE.

OF THE TOTAL COST OF ALL FLIGHTS OF \$1,799.70, POWELL SAID \$885.00 WILL BE REIMBURSED THROUGH CAMPAIGN FUNDS. HE SAID THE CARTER ORGANIZATION RECEIVED FED PERMISSION SOME TIME AGO TO PAID \$25,000 ON CAMPAIGN FUNDS FOR "PRIVATE TRAVEL EXPENSES".

POWELL SAID THE FED BUREAU WILL DETERMINE WHETHER CAMPAIGN FUNDS OR CARTER PERSONAL FUNDS WILL PAY THE REST.

WHEN THE REPORT ON LANCE'S FINANCIAL DEALINGS WERE RELEASED, THE CONTROLLER OF THE CURRENCY SAID:

"ALLEGATIONS HAVE BEEN MADE THAT THE NATIONAL BANK OF GEORGIA HAS NOT FULLY DISCLOSED OR CONTROLLED THE ACCOUNTS RELATING TO LANCE'S LEASE AGREEMENT ON THE AIRCRAFT FROM FEBRUARY, 1975, TO THE PRESENT."

POWELL DECLINED TO COMMENT ON THE STATEMENT AT A NEWS CONFERENCE. HE SAID HE WOULD ASK THE REPORT, WHICH HE SAID THE PRESIDENT HAS A RIGHT TO KNOW, TO BE RELEASED AT THE NATIONAL BANK OF GEORGIA.

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UP-012

(POLITICAL FLIGHTS)

(BY WESLEY ROBERT)

WASHINGTON (UPI) - PRESIDENT CARTER WILL REIMBURSE, EITHER PERSONALLY OR THROUGH CAMPAIGN FUNDS, THE COST OF FIVE FLIGHTS IN 1975 AND 1976 IN A TWIN ENGINE PLANE OWNED BY BUDGET DIRECTOR BERT LANCE'S ATLANTA BANK.

PRESS SECRETARY JODY POWELL SAYS FAILURE TO PAY THE NATIONAL BANK OF GEORGIA AT THE TIME WAS "UNINTENTIONAL."

ANSWERING QUESTIONS FOR MORE THAN A HALF HOUR MONDAY, POWELL DENIED CARTER VIOLATED THE CAMPAIGN LAW PROHIBITING CORPORATE DONATIONS TO A CANDIDATE.

"IT WAS AN OVERSIGHT IN CAMPAIGN BOOKKEEPING OF WHICH THERE ARE MANY IN OURS AND IN OTHERS. WE HAVE MADE AND WILL CONTINUE TO MAKE A GOOD FAITH EFFORT TO DEAL WITH THOSE OVERSIGHTS WHEN THEY COME UP," POWELL SAID.

"IF YOU WISH TO MAINTAIN AN UNINTENTIONAL FAILURE TO REIMBURSE ON ABOUT \$20,000 WORTH OF EXPENDITURES OUT OF \$88- OR \$40-MILLION DURING THOSE TWO YEARS CONSTITUTES A VIOLATION OF THE LAW, THEN SO BE IT."

ROBERT A. DUNTON, PRESIDENT OF THE NATIONAL BANK OF GEORGIA, SAID IN ATLANTA THE BANK WAS UNAWARE UNTIL LAST WEEK OF CARTER'S CAMPAIGN TRIPS ABOARD THE PLANE.

FOLLOWING THE COURSE OF THE CONTROLLER'S INVESTIGATION, WE FOUND THAT WE HAD NOT BEEN REIMBURSED FOR WHAT APPEARED TO BE CAMPAIGN-RELATED TRIPS," HE SAID. "WHEN IT CAME TO LIGHT THAT THOSE TRIPS HAD BEEN MADE AND REIMBURSEMENT HADN'T, EVERYBODY QUICKLY AGREED THAT THIS SHOULD BE DONE."

DUNTON SAID THE POWER REPORT BY THE PRESIDENT WILL BE CREDITED TO THE CAMPAIGN TRAVEL ACCOUNT WHICH WAS USED TO OPERATE THE PLANE.

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8/23/77



FEDERAL ELECTION COMMISSION

1125 K STREET N.W.  
WASHINGTON, D.C. 20463

Robert J. Lipshutz  
Treasurer  
Committee for Jimmy Carter  
1600 Pennsylvania Avenue, N.W.  
Washington, D.C.

Re: MUR 442 (77)

Dear Mr. Lipshutz:

This letter is to inform you that, based upon accounts of Mr. T. Bertram Lance's press conference of August 18, 1977, and confirmed by your letter of August 22, 1977, the Federal Election Commission has found reason to believe that the Committee for Jimmy Carter violated 2 U.S.C. §441b in connection with airplane travel on the National Bank of Georgia airplane during the primary campaign for the Democratic nomination for President.

Although your letter of August 22, 1977 provides information concerning this matter, you have an opportunity to demonstrate that the Commission should take no further action. In order that this matter may be promptly resolved, it is requested that you provide any further information you deem relevant to this inquiry within 10 days of receipt of this letter.

In addition, it would aid the Commission in its determination of the proper source of repayment for the trips of August 30, 1975, and June 13, 1976, if further details concerning those trips are provided by the committee. Concerning the amounts submitted in your letter of August 22 to be the costs of the five flights, the Commission requests that you indicate on what basis the figures for cost per hour of flight time were calculated.



We remind you that this matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you notify the Commission in writing. If you have any questions concerning this matter, please contact Ms. Lyn Oliphant (telephone No. 523-4039), the staff member assigned to this case.

Sincerely yours,

William C. Oldaker  
General Counsel

Charles N. Steele  
Associate General Counsel

73040052033



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

Robert P. Guyton  
President  
National Bank of Georgia  
34 Peachtree at Five Points  
Atlanta, Georgia 30303

Re: MUR 442 (77)

Dear Mr. Guyton:

This letter is to notify you that the Federal Election Commission, based upon information obtained in the ordinary course of its supervisory responsibilities, has found reason to believe that the National Bank of Georgia violated 2 U.S.C. §441b in connection with the use of its airplane by President Carter between August, 1975, and June, 1976, during the Presidential primary campaign.

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

In order that the Commission may promptly resolve this case, your response should be submitted within ten days of the receipt of this notification.

This matter will remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless the Commission receives written authorization to make the investigation public.

If you have any questions concerning this matter, please contact Ms. Lyn Oliphant (telephone No. 202/523-4039), the staff member assigned to this case. If you intend to be



represented by counsel in this matter, please have such Counsel so notify us in writing.

Sincerely yours,

William C. Oldaker  
General Counsel

Charles N. Steele  
Associate General Counsel

7804075203j

MUR 442

7/19/74

Received from Fraud Section, Criminal Division, Department of Justice a report - Corporate Aircraft Owned, Chartered or Used by the National Bank of Georgia (NBG) from the Office of the Comptroller of the Currency and 14 exhibits; also copy of deposition on ~~Van~~ William Warren and Harold White.

LS

Lester Scall  
Assistant General Counsel  
Federal Election Commission

78040052686

FEDERAL ELECTION COMMISSION  
August 24, 1977

MUR 442

'77 AUG 29 AM 11:43

Re: Use of NBG Airplane

Dear Mr. Green:

Earlier this week I sent you a computation of charges incurred by the "Committee for Jimmy Carter" et al concerning the use of this airplane on several occasions in 1975 and 1976.

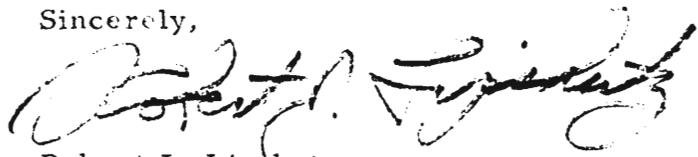
After reviewing with you one of these figures, we agreed that there had been an error made (this is the December 29, 1975, flight).

Therefore, I have prepared the attached revised (corrected) copy of this computation and am sending it to you for your review.

If it is in order, I would appreciate your sending a rebate check to the "Committee for Jimmy Carter" for the difference between the \$1,011.15 sent to you earlier and \$808.65, which now appears to be the correct total amount due to the bank from the Campaign Committee, for the particular four flights.

Thank you very much.

Sincerely,



Robert J. Lipshutz  
Treasurer  
Committee for Jimmy Carter

National Bank of Georgia  
National Bank of Georgia Building  
Atlanta, Georgia 30303

770526

Attention: Mr. Bill Green

bcc: William Oldaker, Federal Election Commission  
The President  
Jody Powell

730100510007

REVISED (CORRECTED) COPY

Committee for Jimmy Carter  
Jimmy Carter and Family

August 30, 1975

Route: Atlanta to Americus to Calhoun  
to Copperhill (Tenn.) to Elijay

Flight Time: 2 hours, 27 minutes

Cost: \$ 220.50

Route: Elijay to Sea Island (dead head  
included)

Flight Time: 3 hours

Cost: \$ 270.00

October 17, 1975

Route: Atlanta to Dalton and Return

Flight Time: 3 hours

Cost: \$ 154.80

\*\*December 29, 1975

Route: Atlanta to Americus and  
Return (dead head each  
direction also included)

Flight Time: 3 hours, 12 minutes

Cost: \$ 288.00

June 13, 1976

Route: Americus to Sea Island (dead  
head included)

Flight Time: 3 hours, 14 minutes

Cost: \$ 145.35 \$ 145.35

June 19, 1976

Route: Sea Island to Americus to  
Calhoun (dead head included)

Flight Time: 4 hours, 5 minutes

Cost: \$ 367.20

TOTAL \*\*\$ 208.65 \$ 792.55

\*\*Erroneous figures were used re: the December 29, 1975, trip in  
original computation, and are corrected herein.

79010051133

REVISED (CORRECTED) COPY

Committee for Jimmy Carter     Jimmy Carter and Family

August 30, 1975

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Calhoun (dead head included)

Flight Time: 4 hours, 5 minutes

Cost: \_\_\_\_\_ \$ 367.20

TOTAL     \*\*\$ 808.65     \$ 782.55

\*\*Erroneous figures were used re: the December 29, 1975, trip in original computation, and are corrected herein.

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7 3 7 1 0 7 5 0 0  
Robert J. Lipshutz  
1600 Pennsylvania Avenue, N. W.  
Washington, D. C. 20500

SEC 1261

FEDERAL ELECTION COMMISSION

AUG 29 10:22

Mr. William Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N. W.  
Washington, D. C. 20463

462

## A Lobbyist's Tiers

Tiers are becoming ever more popular with politicians, a polite way of discriminating with government favors or penalties in pursuit of political goals.

Taxes are tiered, oil prices tiered, farm subsidies tiered and so forth. And we see that a renewed attempt is being made in Congress to tier lobbyists.

More to the point, it would tier organizations that employ lobbyists, applying to them different standards for disclosing their activities. Those who engage in fairly extensive lobbying would file a "long form"; those who do only a little lobbying would file a "short form"; individuals or organizations composed of "volunteers" would be exempt.

Senators Kennedy, Clark and Stafford, backers of the lobbying reform, see it as a way to relieve public suspicions "that government itself is the captive of wealthy citizens and powerful interest groups with special access to Congress and the Executive Branch." They feel that those suspicions are "undeserved," but they want to relieve them anyway.

It seems to us, however, that the more likely effect of their bill—which almost made it through Congress last year—would be to replace old suspicions with new ones. In the main, the new suspicions revolve around the tilt of the bill in favor of organizations that can muster "volunteer" activity and the interesting requirements it

would place on those organizations who make use of paid lobbyists.

For example, the long form disclosure would require that each organization describe its 30 most important issues and the officers and employees who lobbied on each. And it would be required to describe the "methods by which it decides" its lobbying position. We assume that the Comptroller General and the General Accounting Office would not accept "by flipping a coin" as a sufficient description of these internal processes.

If the way the tiers are arranged might suggest that the bill is aimed mainly at the lobbying of business organizations we would not quarrel with that interpretation. The drafters can argue, of course, that it really doesn't restrict lobbying since its aim is merely to generate greater disclosure. But if that is the case then we see no reason to set up tiers. Why not make the same requirements of everyone, since no one's right to petition would be restricted?

The answer of course is that the bill is an inhibition to lobbying, simply because it imposes extensive new paperwork and reporting requirements. GM will manage but what about all the little trade organizations and small interest groups who hire someone to represent them in Washington? And to what end all this reporting if those public suspicions aren't deserved in the first place?

### Lance Headed NBG at Time

## Carter Made Five Flights On Plane Owned by Bank

New York Times News Service

A White House spokesman said that President Carter had made five trips in 1975 and 1976 in an airplane owned by the National Bank of Georgia, of which Budget Director Bert Lance was then president. The spokesman said it was not clear whether the trips were a part of Carter's campaign activities or, if so, whether the bank was reimbursed for the use of the plane.

The disclosure came yesterday as the comptroller of the currency issued a report which said an investigation of Lance's banking activities and personal finances had uncovered nothing that warranted prosecution. But the report raised other questions that are likely to keep the controversy over Lance's activities alive for some time.

One of the most pressing questions raised — but not answered — by the comptroller's report concerns Lance's use of a plane owned by the National Bank of Georgia.

THE COMPTROLLER, John G. Heimann, said in a cover letter attached to his report to the Senate Governmental Affairs Committee that an inquiry into allegations about an improper use of the NBG plane between February 1975 and the present was still under way, but had "not progressed to the point where any conclusions may properly be drawn."

A senior official of the Treasury Department, of which the comptroller's office is a part, later said that the investigation was into whether Lance had used airplanes owned or leased by the bank since taking office as director of the Office of Management and Budget earlier this year.

The investigation by the comptroller's office is said to be focusing only on Lance. But it was Lance himself in a news conference, who suggested

that President Carter also might have used NBG airplanes.

A reporter asked whether Carter, as a candidate for President, might have used a plane owned by the bank. Lance first declined to answer, saying that it would be improper to comment on a matter still under investigation. When pressed on the matter, however, he said:

"The President, at that time he was a candidate and a former governor of Georgia, if you remember, also he was a customer of some magnitude of the National Bank of Georgia."

Wash. Star

8/19/77

THE REFERENCE to President Carter being a customer of the bank stems from the fact that the peanut warehouse business operated by Carter and several relatives in Plains, Ga., in 1975 received a \$3.9 million line of credit from the bank to buy peanut crops from farmers, and another \$1 million for capital improvements.

"Did he fly as a customer?," Lance was asked.

"I don't think it would be appropriate for me to comment," he replied.

Jody Powell, the White House spokesman, later said that a check of NBG records showed that Carter had used the plane for at least five trips, most of them from Americus, Ga., which is near Plains, to other parts of the state.

Powell said it was not immediately clear whether the trips were a part of his "campaign" activities or, if so, whether the bank was reimbursed.

If the trips were a part of Carter's campaign activities and the bank was not reimbursed, it might be considered an illegal campaign contribution on the part of the bank. If the plane was used free of charge for campaign activities but not reported by the Carter campaign organization, this might be a violation of federal campaign law.

## Bert Lance Passes Muster, For Now

The Comptroller of the Currency has issued his report on the former business practices of Bert Lance, President Carter's budget director, and while the report doesn't indict Mr. Lance, it doesn't unequivocally absolve him, either. What it does do is state that none of the evidence it has considered provides the basis for criminal prosecution under Federal banking law, and then questions the adequacy of that law to regulate sound banking practices.

Obviously, the White House had hoped for less equivocation. Nonetheless, Mr. Carter flew from a vacation in Camp David to be with Mr. Lance at a celebratory news conference and to say: "Bert Lance enjoys my complete confidence and support. I'm proud to have him as part of my Administration as he has been throughout." Mr. Carter's support—and the flight—considerably closed the space between the two men. Until the report, it had been apparent that the White House was seeking to keep a safe distance from Mr. Lance.

The inquiry will continue (it will be taken up by at least three Congressional subcommittees, after Labor Day) and the question remains as to how effective Mr. Lance can be as budget director with doubts and inquiries still in the air. He says he will stay on and that he can indeed be effective.

Last week's report addressed the practice of Mr. Lance's Calhoun First National Bank in honoring overdrafts for himself, members of his family and others, and the possible connection of his National Bank of Georgia's relations with other banks and his personal loans.

What it did not address, and the Congressional committees are bound to, are possible violations of ethical standards or propriety. It also did not address a number of new issues, including the adequacy of the collateral that Mr. Lance posted for several large loans and the manner in which he met reporting requirements about his debts.

One of the new issues involves the President directly. The Comptroller is still investigating Mr. Lance's use of a National Bank of Georgia plane. Mr. Carter also used that plane, and it is not clear whether the trips were part of his campaign activities and if so whether the bank has been reimbursed.

Mr. Carter is also involved, albeit indirectly, in any and all questions about Mr. Lance's prudence and soundness. The two men have been very close for a very long time, and Presidents are vulnerable on the matter of their friends and confidants.

Supreme Court's decision against school segregation had been applied to other forms of official discrimination.

Although the judge has had no opportunity to demonstrate his administrative abilities directly, he has shown no hesitation in asserting himself when presented with what he regarded as poor administration by state officials. Last year he decided that the entire prison system of Alabama was so substandard that it violated the rights of the prisoners, and he ordered corrective measures to be taken, under judicial supervision.

Judge Johnson has one other advantage, from the President's point of view: He is likely to be readily confirmed by the Senate. As a Republican—he was appointed by President Eisenhower—he should appeal to Republicans, and as a Southerner he should be acceptable to the Southern bloc. Liberals, moreover, are unlikely to find fault with a nominee with such a strong civil rights record.

The screening commission had considered about 235 applicants for the job, none of them women.

NY Times

8/21/77

## Primary Roundup

### Badillo Calls for Limits on Campaign Contributions

Representative Herman Badillo of the Bronx, whose late-starting and badly financed campaign for the Democratic mayoral nomination has only recently begun to show signs of life, called yesterday for strict limits on individual and corporate contributions to political contestants.

Big contributors, he said, "are not altruistic by nature or training." "It's not a question simply of favors rendered for cash received, but something more subtle than that," he said. Ready access to a mayor "is power indeed," Mr. Badillo said yesterday. "Even if it's only a matter of a contributor's phone calls being put through promptly, it's well worth his investment."

The Bronx Congressman, who lost to Mayor Beame in the Democratic primary runoff four years ago, drew attention to the latest list of contributions made public by the candidates last Monday. "The Beame contribution lists reads like the membership of the New York Board of Realtors," he said, referring to the large number of real-estate figures who are the Mayor's staunchest supporters this time out as they were in 1973. Mr. Badillo said he would limit his

own contributions or loans to \$1,000 and would make it illegal for corporations to donate or lend any money to candidates. The largest individual contribution Mr. Beame has received to date was \$55,000 from a garment manufacturer. Mr. Badillo, by contrast, has raised less than \$66,000 from all sources since he entered the race. Mr. Badillo, wearing an open-necked sports shirt, blue blazer and gray slacks, spent most of his handshaking time yesterday in the Bronx, his political base, with forays into Manhattan and Brooklyn.

... THE WHITE HOUSE STAFF IS LOOKING AT PRESIDENT  
... OF THE COMPTROLLER OF BUDGET DIRECTOR BERT  
... BANK TO SEE IF THERE WAS A VIOLATION OF FEDERAL OFFICIALS  
... 1978.

... HOUSE PRESS SECRETARY JOHN POWELL SAID THE WORK TO BE DONE  
... THE WEEKEND WAS NECESSARY BECAUSE OF QUESTIONS ABOUT THE FLIGHTS  
... OF THE COMPTROLLER OF THE BUREAU'S INVESTIGATION OF LANDS  
... FINANCER.

... VIOLATION OF FEDERAL OFFICIALS FINANCE LAW FOR A  
... OF VALUE TO A  
... OFFICER.

... POWELL SAID FROM A SOURCE NEARBY HE SAID THAT TWO FLIGHTS  
... OF THE NATIONAL BANK OF GEORGIA WERE  
... TRIPS.

... WILL TAKE AND COVER THEM OVER THE WEEKEND TO FIND OUT IF THE  
... POWELL TOLD REPORTERS.

... OF POLICE OFFICERS WERE DISCOVERED INVOLVING THOSE  
... HE SAID THE BILLS WOULD BE PAID FROM  
... IF THERE IS ANY QUESTION, IT WOULD BE OUR  
... FOR THE TWO TRIPS AND ANY OTHERS  
... SAID.

... ONLY TALKING ABOUT A FEW HUNDRED DOLLARS AT THE MOST," HE  
... SAID.

... REPORTERS SAID TODAY THAT ITS INVESTIGATION OF  
... FROM THE OFFICE  
... OF THE COMPTROLLER OF BUDGET  
... OF THE TRIP.

... SAID HE WAS A MEMBER OF THE AIR FORCE FIVE  
... 1976, BUT HE SAID CARTER  
... PART OF ANOTHER.

... TO DISCLOSE THE AIRPLANE ISSUE THURSDAY AT A NEWS  
... CONFERENCE DEALING WITH THE COMPTROLLER'S REPORT.

... TO ATLANTA FOR A QUIET WEEKEND AT HOME BEFORE RETURNING  
... ON MONDAY,  
... SAID.

... REPORT SAID LANCE COMMITTED NO CRIMINAL OFFENSES  
... WHEN LANCE WAS PRESIDENT  
... AND  
... BY  
... SAID.

... CALLED FOR A "PRESIDENTIAL REPUBLICAN  
... OF  
... SAID.

... THE SENATE GOVERNMENT AFFAIRS COMMITTEE, WHICH HAS  
... SAID  
... SAID.

... SAID THE ADMINISTRATION WOULD "GET OUT OF ITS WAY TO BE  
... WITH THE SENATE HEARINGS.

Reimbursement at Issue

# Carter Campaign Data on 5 Bank Plane Flights Checked

By Fred Barnes  
Washington Staff Writer

White House officials have begun examining campaign records to determine whether President Carter reimbursed the National Bank of Georgia for airplane flights in 1975, but no evidence of any payment has been found yet.

Jody Powell, the presidential press secretary, said officials from the White House counsel's office will probably be able to ascertain by early next week whether Carter provided any reimbursement for the trips on the bank-owned plane.

In the event that the Carter campaign did not pay for the trips, Pow-

ell said reimbursement would be made from leftover campaign funds. Or if it cannot be determined for certain whether there was any reimbursement, the Georgia bank will also be paid out of these funds.

"Our inclination would be to go ahead and pay it and not worry about it" if no clear determination can be made about reimbursement, Powell said. Only "a few hundred dollars" would be involved, he said.

**THE TRIPS WHICH** Carter took on the plane owned by the bank, which was headed by Bert Lance until he became budget director in the Carter administration last Janu-

ary, became known as a result of the comptroller of the currency's investigation into Lance's finances.

At a press conference Thursday at which he claimed to be cleared by the comptroller's report on the probe, Lance refused to divulge whether Carter had been given rides on the bank's plane.

But he noted that "the President at that time, who was a candidate and former governor of Georgia, if you remember, also was a customer of some magnitude at the National Bank of Georgia."

However, the White House later disclosed that Carter took five trips on the bank's plane in 1975 and 1976.

and Powell said that at least one and probably another of those involved campaign activity by Carter.

According to Powell, it was learned from the bank that Carter went on five trips on the plane. Bank records will be examined to find if he went on any additional flights, Powell indicated.

**IF THERE WAS** no reimbursement for those flights, the free use of the plane might be viewed as an illegal campaign contribution by the bank to the Carter election drive.

Powell said a flight from Atlanta to Dalton, Ga., on Oct. 17, 1975, clearly involved a campaign appearance by

Carter, and a flight on Aug. 30, 1975, from Atlanta to Sea Island, Ga., may also have included a campaign stop on the way.

The other three flights were personal, Powell said, and would not require any reimbursement. They included a trip back and forth between Americus, Ga., and Sea Island last summer, and another trip from Americus to Atlanta in late 1975.

The press secretary acknowledged that Secret Service agents guarding candidate Carter may have gone on some of the flights and that their expenses would have to be reimbursed, too. "I would guess we probably did," Powell said.

Wash.  
Star  
8/21/77

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# Aide Cites an 'Oversight' by Carter Over Free Trips on a Lance Plane

By CHARLES MOHR

Special to The New York Times

WASHINGTON, Aug. 22—The White House said today that the Georgia bank formerly headed by Budget Director Bert Lance had not been paid for five flights that President Carter took on an airplane owned by the bank in 1975 and 1976, even though some of the flights were political campaign trips. The White House press secretary, Jody Powell, said that arrangements were being made to pay now.

Mr. Powell said that most of the cost of three flights made in 1975 on a plane owned by the National Bank of Georgia "probably should" be considered political and would be paid out of the Carter campaign treasury.

Mr. Carter has asked the Federal Elections Commission to advise whether two flights in 1976 should also be considered campaign trips. If so, the campaign treasury will pay for them; if not, Mr. Carter will pay from his own pocket.

### New Questions Are Raised

Mr. Powell said the failure to pay the bank earlier had been the result of a "bookkeeping oversight" by campaign officials. However, by saying it had determined that some of the flights were campaign trips, the White House appears to have raised new questions about Mr. Lance, and to have drawn Mr. Carter deeper into controversy surrounding Mr. Lance.

It is illegal for a corporation to make a campaign contribution "or expenditure" on behalf of a candidate in a Federal election and for the candidate to "knowingly accept" such a contribution.

Mr. Powell denied today that the President, Mr. Lance or the Carter for President campaign committee had been guilty of any violation of the law or impropriety, attributing the failure to pay earlier solely to an "unintentional oversight."

"We accept the responsibility" for not paying for the flights or reporting them as required by law, the press secretary said.

Mr. Powell, in a telephone interview this evening, said Mr. Lance had told him

that he had not ordered the National Bank of Georgia, of which he was chief executive officer, to omit billing the Carter campaign for the flights. According to Mr. Powell, Mr. Lance said that someone in Mr. Carter's campaign scheduling office had said the campaign organization would "be responsible" for letting Mr. Lance know how payment should be handled.

At a White House briefing earlier in the afternoon, Mr. Powell said that the cost of the flights was \$1,793.70. He said all of this would be reimbursed to the National Bank of Georgia, some from campaign funds, some from the President's own pocket.

Mr. Powell said Mr. Carter took five flights in the bank's eight-seat Beechcraft plane from Aug. 30, 1975 to June 19, 1976. All of the flights were to points in Georgia, he said, except for a stop in Copper Hill, Tenn., on the first flight.

Mr. Powell said the White house had "determined" that the first three flights were largely related to Mr. Carter's campaign for the Democratic Presidential

Continued on Page 22, Column 1

## AIDE CITES OVERSIGHT IN TRIPS BY CARTER

Continued From Page 1

nomination. The \$865.50 payment for these flights, he said, will be paid from a fund of \$25,000 retained by the Carter organization for delayed campaign expenses.

### Commission's Advice Sought

The last two flights, to the resort area of Sea Island, Ga. in 1976, appeared to be vacation trips. But because conferences on the campaign ensued at Sea Island, the President asked that the Federal Election Commission give "advice" on whether these were campaign flights. If the commission decides that they were, then the reimbursement will come from the campaign treasury; if not, Mr. Carter will pay out of pocket.

Mr. Powell said it was clear that Mr. Lance had a "charter" from the bank to use the aircraft for business purposes and that "it was legitimate" for Mr. Carter to take non-campaign flights without paying because he was a customer of the National Bank of Georgia. Mr. Carter received loans amounting to almost \$5 million from Mr. Lance's bank.

However, Mr. Powell said, the President had decided that "to avoid any questions he will personally reimburse" for any part of the flights that was not political. As for the political flights, Mr. Powell said at another point in the press conference, "clearly you are supposed to reimburse" for such flights.

### 'An Oversight,' Powell Says

The press secretary expressed the opinion that there had been no violation of Federal law by Mr. Carter or his campaign committee because there had been no intent to break the law. "It's an oversight in campaign bookkeeping," he said.

Mr. Powell said in the later telephone interview that a "good faith effort" to reimburse was made as soon as the matter came to the attention of the White House. That happened last week, when a reporter asked Mr. Lance at a press conference whether the President had flown on the bank plane. Mr. Lance declined to answer then, saying it would be improper to do so until the Comptroller of the Currency finished an inquiry into Mr. Lance's use of the aircraft.

The Comptroller, John C. Heintzmann, re-

New York  
Times

8/23/77

ported last week that he had uncovered no evidence about Mr. Lance's banking and loan practices that warranted prosecution, adding that the inquiry was continuing into some aspects of Mr. Lance's affairs and the handling of earlier investigations by Federal officials.

The Federal Election Commission, in a regulation promulgated last April, said that political flights on corporate or union-owned aircraft must be paid for in advance. This regulation, however, was not in effect when Mr. Carter flew on the bank's plane.

However, Mr. Carter's campaign organization was obligated to make reimbursement, and Mr. Lance's bank was prohibited from offering free flights in connection with the campaign.

Mr. Powell said Mr. Lance had told him that he had raised the question of payment with campaign officials "before the first flight" and that someone in "our scheduling office told him we would be responsible for letting them [the bank] know how payment should be handled."

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# Carter to Pay For Flights in Bank's Plane

By Edward Walsh  
Washington Post Staff Writer

President Carter will reimburse the National Bank of Georgia--from both campaign and personal funds--for the cost of five flights Carter took in 1975 and 1976 on NBG's corporate airplane, White House press secretary Jody Powell said yesterday.

The total cost of the flights was \$1,793. At least \$865 of that amount will be reimbursed from Carter campaign funds, and the remainder from the President's personal funds, Powell said.

Questions about Carter's use of the NBG plane arose in connection with the comptroller of the currency's investigation into the personal financial dealings of budget director Bert Lance.

Lance was asked at a press conference last week whether Carter had ever used the plane. He replied that since use of the plane was still being investigated, it would be inappropriate for him to comment.

However, Powell later said that bank records showed five flights by Carter on the plane. He said officials were checking to determine whether the flights were for campaign purposes and, if so, whether the bank was reimbursed for use of the plane.

The federal election law requires such a reimbursement for campaign flights on private aircraft.

Yesterday, Powell said the records show that two flights--in October, 1975, and December, 1975--were for campaign purposes. The \$644 cost of these flights will be reimbursed from campaign funds, he said. In addition, a third flight, in August, 1975, was partially for campaign purposes. Reimbursement for its \$490 cost will come partially from campaign funds and partially from personal funds, Powell said.

The President's other two flights on the NBG plane occurred in June, 1976, between Americus, Ga., and Sea Island, Ga. Powell said the White House has asked the Federal Election Commission to determine how much of the \$659 total cost of those flights should be reimbursed from personal funds.

Earlier, the FEC gave the Carter campaign permission to retain \$25,000 in public campaign funds to handle just such situations, Powell said.

The press secretary said the fact that none of the flights were reimbursed initially was an oversight, and not a deliberate attempt to circumvent the election law. But he was unable to explain how Carter came to take the five flights on the corporate plane, and brushed aside as "off the wall conclusions" suggestions that the bank never intended to be reimbursed and offered the plane to Carter because of his close friendship with Lance.

Carter will reimburse National Bank of Georgia for five flights on the bank's private plane during 1975 and 1976. A spokesman said the \$1,794 will come from the President's personal funds and from federal money received under the campaign financing law.

Wall Street  
Journal

8/23/77

Wash.

Post 8/23/77

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[The following text is extremely faint and largely illegible due to low contrast and scan quality. It appears to be a multi-paragraph document, possibly a news report or official statement, containing several lines of text per paragraph. Some words like "FEDERAL", "ELECTION", and "COMMISSION" are faintly visible.]

UPI 8/22/77



August 22, 1977

Re: Committee for Jimmy Carter

Dear Mr. Oldaker:

As you undoubtedly are aware, there has been a considerable amount of discussion in the press during the past several days relative to an airplane owned by the National Bank of Georgia, of Atlanta, which purportedly was used by President Carter during the period when he was campaigning for the nomination of the Democratic Party for President of the United States.

Attached is a memorandum which I prepared relative to this matter, based upon all available information at this time.

Also attached is a summary of the five airplane trips in question, setting out detailed information which we have obtained in the past several days from the offices of the National Bank of Georgia. You will note that we have attempted to divide the costs of these trips between the "Committee for Jimmy Carter" and "Jimmy Carter and Family" personally. This division of these costs is based upon the following information which we respectfully submit to you. We would appreciate your advice as to the appropriateness of the division of these costs, which now have been paid to the National Bank of Georgia. Should any adjustments be necessary, we of course will make them.

On August 30 the candidate participated in a political parade from Copperhill, Tennessee, to Elijay, Georgia, and attendant activities such as a barbecue. His trip to Sea Island, Georgia, was primarily for recreation and rest.

On October 17, 1975, the candidate went to the home of a close personal friend in Dalton, Georgia, but this was related to campaign business.

7801075???

page 2

On December 29 the candidate came from his home near Americus to Atlanta primarily to attend a meeting of several supporters who were preparing a fund raising activity, a Telethon.

On June 13, 1976, the candidate and several members of his family went to Sea Island both for recreation and rest and for planning related to the upcoming Democratic Party Convention and related political matters. The family stayed there until June 19, at which time the family returned to Americus and to Calhoun, but the candidate flew out of Brunswick, Georgia, on another plane for a campaign trip (Brunswick is adjacent to Sea Island).

While we of course will include these campaign disbursements in our next report to the Federal Election Commission, in view of the circumstances we felt it wise to advise you specifically of this action and also to request your advice.

Thank you very much.

Sincerely,



Robert J. Lipschutz  
Treasurer

Committee for Jimmy Carter

Mr. William Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N. W.  
Washington, D. C. 20463

7901005:711

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M E M O R A N D U M

August 22, 1977

SUBJECT: National Bank of Georgia Airplane Expenses, Carter Presidential Campaign

A recent review of the flight records of the aircraft owned by the National Bank of Georgia (N.B.G.) indicates that Jimmy Carter was a passenger on the airplane on four occasions during the two-year period in which he was campaigning (and other members of his family without him on another occasion), within Georgia and once in a nearby area of Tennessee. The Committee's records do not indicate either a billing or a payment to N.B.G. for the cost of the transportation, which N.B.G. now has advised us should be for \$1,011.15 for those portions of these trips which related to the campaign. During this two-year period the campaign paid out over \$150,000 for the use of small airplanes, mostly for short trips in and around the state of Georgia.

At no time did the Campaign receive a billing for these services. Had we received an invoice it would have been paid. The Committee actually is now returning approximately \$126,000 to the U. S. Treasury from its campaign funds.

While all matters relating to scheduling, billing and payment of expenses were of course handled by the campaign staff, the candidate and the campaign treasurer accept full responsibility for this matter and all similar matters.

The entire subject of unrecorded in-kind contributions by both individuals and corporations was a problem that was addressed by the Committee's internal auditors as well as Arthur Andersen & Company, C.P.A.'s, who conducted an exhaustive, independent audit of the Committee's records. Tests and procedures were instituted by the Committee and by Arthur Andersen & Company to try to insure that all in-kind contributions by individuals were recorded, disclosed in the Committee's FEC reports, and properly accounted for, and that in-kind contributions by corporations were eliminated by full payment for any goods or services rendered. As a result of our search for unrecorded in-kind contributions a number of individuals exceeded their maximum contribution limits and had to be refunded the excess over \$1,000. Corporations failing to properly bill the Committee (either intentionally or unintentionally) were always paid in full. It is presently the Committee's belief that there are no material in-kind contributions that the Committee is unaware of. This view is also shared by Arthur Andersen and Company. One can never be sure that there are absolutely no unrecorded in-kind contributions as it is impossible to verify such a fact to perfection.

There were thousands of transactions, both in expenditures and contributions, over a period of two years in 50 states, D.C. and Puerto Rico. Hundreds of these had to be reviewed, resulting in numerous adjustments.

Many expense items and a few contribution questions are still unresolved: disputed claims; checks sent out which never have been deposited; one independent expenditure which the FEC is questioning; items which may have to be reviewed after completion of the FEC's audits; etc. --- It may take the full statutory 4-year period to get every detail concluded. The Federal Election Commission recognizes this problem and has agreed to the Committee's retaining a reserve fund of \$25,000 for the purpose of clearing up all doubtful items.

August 30, 1975

Route: Atlanta to Americus to Calhoun  
to Copperhill (Tenn.) to Elijay

Flight Time: 2 hours, 27 minutes

Cost: \$ 220.50

Route: Elijay to Sea Island (dead  
head included)

Flight Time: 3 hours

Cost: \$ 270.00

October 17, 1975

Route: Atlanta to Dalton  
and Return

Flight Time: 3 hours

Cost: \$ 154.80

December 29, 1975

Route: Atlanta to Americus  
and Return (dead head each  
direction also included)

Flight Time: 5 hours, 27 minutes

Cost: \$ 490.50

June 13, 1976

Route: Americus to Sea Island (dead  
head included)

Flight Time: 3 hours, 14 minutes

Cost: \$ 145.35 \$ 145.35

June 19, 1976

Route: Sea Island to Americus  
to Calhoun (dead head  
included)

Flight Time: 4 hours, 5 minutes

Cost: \_\_\_\_\_ \$ 367.20

TOTAL \$1,011.15 \$ 782.55

Mr. Robert S. Lipschutz  
1600 Pennsylvania Avenue, N. W.  
Washington, D. C. 20500

Mr. William Oldaker  
General Counsel  
Federal Election Commission  
1325 K Street, N. W.  
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By Messenger



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.  
WASHINGTON, D.C. 20463

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