



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 4726

DATE FILMED 10/8/98 CAMERA NO. 2

CAMERAMAN EES

98043900617

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: July 15, 1997

ANALYST: Pat Sheppard

I. COMMITTEE: Committee to Elect Philip Johnston for
Congress (C00312330)
Frances A. Smith, Treasurer
(3/4/96-Present)
William D. Smith, Treasurer
(2/7/96-3/3/96)
426 Webster Street
Marshfield, MA 02050

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

III. BACKGROUND:

Failure to File Forty-Eight Hour Notifications

The Committee to Elect Philip Johnston for Congress ("the Committee") has failed to file a 48-Hour Notification for candidate loans totaling \$51,000, received prior to the 1996 Primary Election.

The candidate was involved in the Massachusetts Primary Election held on September 17, 1996. Prior Notice was sent to the Committee on August 12, 1996 (Attachment 2). The Notice includes a section titled "48 Hour Notices on Contributions". This section reads "Notices are required if the committee receives contributions (including in-kind gifts or advances of goods or services; loans from the candidate or other non-bank sources; and guarantees or endorsements of loans to the candidate or committee) of \$1,000 or more, during the period of August 29 through September 14. The notices must reach the appropriate federal and state filing offices within 48 hours of the committee's receipt of the contribution(s)."

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Schedule A of the 1996 October Quarterly Report indicates that the Committee failed to file a 48-Hour Notice for candidate loans received during the aforementioned period (Attachment 3). The following is a list of the candidate loans for which a 48-Hour Notice was not filed:

<u>Contributor Name</u>	<u>Date</u>	<u>Amount</u>
Philip W. Johnston	09/06/1996	\$45,000
Philip W. Johnston	09/06/1996	\$ 6,000

On December 17, 1996, a Request for Additional Information ("RFAI") was sent to the Committee (Attachment 4). The RFAI notes on an informational basis that the Committee may have failed to file one or more of the required 48-Hour Notices for "last minute" contributions of \$1,000 or more. The notice requests the Committee to review their procedures for checking contributions received during the aforementioned time period. In addition, the notice states that although the Commission may take legal steps, any response would be taken into consideration.

The Committee's January 7, 1997 response fails to address this issue (Attachment 5). On January 13, 1997 the Reports Analysis Division Analyst called the candidate (Attachment 6). The analyst spoke with the candidate's wife. She explained that she would check into the matter and get a response to the analyst as soon as possible.

On January 22, 1997, the Committee filed a response (Attachment 7). The response includes a copy of a 48-Hour Notice dated September 7, 1996. The Committee states that the copy is not a very good one as it is a copy of a thermofax. The Commission has no record of the receipt of the original fax.

The Committee's March 5, May 9 and June 16, 1997 amendments do not address this issue.

98043900619

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

JOHNSTON, PHILIP WILLIAM	HOUSE 10 DEMOCRATIC PARTY						MASSACHUSETTS	1996 ELECTION	ID# H6MA10089
1. STATEMENT OF CANDIDATE									
1996 STATEMENT OF CANDIDATE								7FEB96	2 96HSE/593/1199
2. PRINCIPAL CAMPAIGN COMMITTEE									

COMMITTEE TO ELECT PHILIP JOHNSTON FOR CONGRESS							ID #C00312330	HOUSE	
1996 STATEMENT OF ORGANIZATION							7FEB96		2 96HSE/593/1201
STATEMENT OF ORGANIZATION - AMENDMENT							4MAR96		2 96HSE/594/3853
48 HOUR CONTRIBUTION NOTICE							1SEP96		2 96HSE/620/3515
48 HOUR CONTRIBUTION NOTICE							3SEP96		3 96HSE/620/3504
48 HOUR CONTRIBUTION NOTICE							9SEP96		3 96HSE/621/3012
48 HOUR CONTRIBUTION NOTICE							13SEP96		3 96HSE/621/4318
48 HOUR CONTRIBUTION NOTICE							16SEP96		3 96HSE/621/5020
48 HOUR CONTRIBUTION NOTICE							17SEP96		3 96HSE/622/0199
48 HOUR CONTRIBUTION NOTICE							19SEP96		3 96HSE/622/1510
48 HOUR CONTRIBUTION NOTICE							24SEP96		3 96HSE/622/2437
48 HOUR CONTRIBUTION NOTICE							26SEP96		4 96HSE/622/2620
APRIL QUARTERLY			111,451		36,083		1JAN96 -31MAR96		59 96HSE/601/0632
APRIL QUARTERLY - AMENDMENT			-		-		1JAN96 -31MAR96		11 96HSE/606/5249
REQUEST FOR ADDITIONAL INFORMATION							1JAN96 -31MAR96		2 96FEC/049/3109
REQUEST FOR ADDITIONAL INFORMATION 2ND							1JAN96 -31MAR96		3 96FEC/054/2741
JULY QUARTERLY			124,906		107,732		1APR96 -30JUN96		43 96HSE/615/2830
JULY QUARTERLY - AMENDMENT			-		-		1APR96 -30JUN96		5 97FEC/165/0358
JULY QUARTERLY - AMENDMENT			-		-		1APR96 -30JUN96		12 97FEC/169/0408
JULY QUARTERLY - AMENDMENT			124,906		107,732		1APR96 -30JUN96		16 97FEC/189/1306
REQUEST FOR ADDITIONAL INFORMATION							1APR96 -30JUN96		6 96FEC/162/3386
REQUEST FOR ADDITIONAL INFORMATION 2ND							1APR96 -30JUN96		3 97FEC/167/2632
PRE-PRIMARY			76,658		149,435		1JUL96 -28AUG96		34 96HSE/621/3437
PRE-PRIMARY - AMENDMENT			-		-		1JUL96 -28AUG96		1 97FEC/165/0629
PRE-PRIMARY - AMENDMENT			-		-		1JUL96 -28AUG96		1 97FEC/174/2400
NOTICE OF FAILURE TO FILE							1JUL96 -28AUG96		2 96FEC/077/4080
REQUEST FOR ADDITIONAL INFORMATION							1JUL96 -28AUG96		3 96FEC/162/3375
REQUEST FOR ADDITIONAL INFORMATION 2ND							1JUL96 -28AUG96		3 97FEC/167/2666
OCTOBER QUARTERLY			166,631		179,271		13OCT96		39 96FEC/103/1700
OCTOBER QUARTERLY - AMENDMENT			-		-		13OCT96		1 97FEC/165/0628
OCTOBER QUARTERLY - AMENDMENT			-		-		13OCT96		1 97FEC/174/2401
OCTOBER QUARTERLY - AMENDMENT			-		-		29AUG96 -13OCT96		13 97FEC/189/1322
OCTOBER QUARTERLY - AMENDMENT			-		-		13OCT96		1 97FEC/189/4591
OCTOBER QUARTERLY - AMENDMENT			-		-		29AUG96 -13OCT96		4 97FEC/210/0015
REQUEST FOR ADDITIONAL INFORMATION							29AUG96 -13OCT96		8 96FEC/162/3378
REQUEST FOR ADDITIONAL INFORMATION 2ND							29AUG96 -13OCT96		4 97FEC/167/2669

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FEDERAL ELECTION COMMISSION
1995-1996

Attachment 1

DATE 14JUL97

DATE INDEX OF SUPPORTING DOCUMENTS - (E)

PAGE 2 of 2

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
			PRIMARY	GENERAL	PRIMARY	GENERAL			
REQUEST FOR ADDITIONAL INFORMATION							29AUG96 -13OCT96	2	97FEC/193/2803
REQUEST FOR ADDITIONAL INFORMATION 2ND							29AUG96 -13OCT96	3	97FEC/198/4582
YEAR-END			33,237		34,479		1OCT96 -31DEC96	27	97FEC/179/2591
YEAR-END - AMENDMENT			33,237		34,479		1OCT96 -31DEC96	34	97FEC/202/1105
YEAR-END - AMENDMENT			-		-		1OCT96 -31DEC96	6	97FEC/211/4173
YEAR-END - AMENDMENT			-		-		1OCT96 -31DEC96	5	97FEC/212/3446
REQUEST FOR ADDITIONAL INFORMATION							1OCT96 -31DEC96	3	97FEC/193/2800
REQUEST FOR ADDITIONAL INFORMATION 2ND							1OCT96 -31DEC96	3	97FEC/198/4579
TOTAL			512,883	0	507,000	0		389	TOTAL PAGES
3. AUTHORIZED COMMITTEES									
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN									

All reports listed have been reviewed.

Ending cash on hand as of 12/31/96: \$7882.18

Debts & obligations owed to the Committee: \$0.00

Debts & obligations owed by the Committee: \$151,000.00

93043900621

PRIMARY ELECTION REPORT NOTICE

FEDERAL ELECTION COMMISSION

MASSACHUSETTS
Congressional Committees

August 12, 1996

FOR COMMITTEES INVOLVED IN THE PRIMARY (09/17/96)

REPORT	REPORTING PERIOD*	REG./CERT. MAILING DATE**	FILING DATE
Pre-Primary	07/01/96 - 08/28/96	09/02/96***	09/05/96
	----48 Hour Notices----		
October Quarterly	08/29/96 - 09/30/96	10/15/96	10/15/96

WHO MUST FILE

Principal campaign committees of congressional candidates (including unopposed candidates) who seek nomination in the primary must file the above reports and notices. If the campaign has more than one authorized committee(s), in addition to the principal campaign committee, the principal campaign committee must also file a consolidated report on Form 3Z.

WHERE TO FILE

Due to recent legislative changes, U.S. House candidates should file with the Federal Election Commission, rather than with the Clerk of the House of Representatives. Senate candidates should continue to file with the Secretary of the Senate. Committees should consult the back of Forms 3 and 6 for both addresses.

LABEL

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

COMPLIANCE

Treasurers of political committees are responsible for filing all reports on time. Failure to do so is subject to enforcement action. Committees filing illegible reports or using non-FEC forms (except for FEC approved computer generated forms) will be required to refile.

*These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and, if applicable, before the individual became a candidate.

**Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

***The mailing date for the Pre-Primary Report is a Federal holiday; nevertheless, the report must be received by the filing date. Reports sent by registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

(over)



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B.H.

48 HOUR NOTICES ON CONTRIBUTIONS

Notices are required if the committee receives contributions (including in-kind gifts or advances of goods or services; loans from the candidate or other non-bank sources; and guarantees or endorsements of loans to the candidate or committee) of \$1,000 or more, during the period of August 29 through September 14.

The notices must reach the appropriate federal and state filing offices within 48 hours of the committee's receipt of the contribution(s). U.S. House candidates faxing 48-hour notices should transmit them to the FEC at 202/219-0174. Senate candidates should transmit them to the Secretary of the Senate at 202/224-1851. Note that 48-hour notices are the only FEC documents that may be faxed.

B.H.

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FOR INFORMATION, CALL: 800/424-9530 or 202/219-3420

FEC - SCHEDULE A

ITEMIZED RECEIPTS

Loans Made or Guaranteed by the Candidate

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

Name of Committee (in Full) Committee to Elect Philip W. Johnston

C00312330

A. Full Name, Mailing Address and ZIP Code

Philip W. Johnston
PO Box 909
Marshfield, MA 02050

Name of Employer

Occupation
Candidate for Congress
Aggregate YTD 147,000.00

Date (month, day, year)

B.H.
9/6/96
9/6/96
9/11/96

Amount of Each Receipt this Period

\$21,000.00
45,000.00
6,000.00
14,000.00

Receipt For: X Primary General
Other:

SUBTOTAL of Receipts This Page (optional)

\$86,000.00

TOTAL This Period (last page this line number only)

\$86,000.00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

Frances A. Smith, Treasurer
Committee to Elect Philip Johnston
for Congress
426 Webster Street
Marshfield, MA 02050

DEC 17 1996

Identification Number: C00312330

Reference: October Quarterly Report (8/29/96-10/13/96)

Dear Treasurer:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Schedule A of your report discloses a contribution(s) which appears to exceed the limits set forth in the Act (copies attached). You should conduct a review of all of your contributions to determine the rest of the excessives that your committee may have received. As you check for additional excessives, you should review the committee's procedures for handling the receipt of contributions.

An individual or a political committee other than a qualified multicandidate committee may not make a contribution to a candidate for federal office in excess of \$1,000 per election. A qualified multicandidate committee may not make a contribution to a candidate for federal office in excess of \$5,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (e) and (k))

If the contribution(s) in question was not completely or correctly reported, you should amend your original report using the new or corrected information. If the contribution(s) exceeds the limits, you should either refund to the donor the amount in excess of \$1,000 or get the donor to

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COMMITTEE TO ELECT PHILIP JOHNSTON
FOR CONGRESS
PAGE 2

redesignate and/or reattribute the excessive amount in writing. All refunds, redesignations, and reattributions must be made within sixty days of receipt of the contribution. Copies of refund checks and copies of letters reattributing or redesignating the contributions in question may be used to respond to this letter. Refunds are reported on Line 20 of the Detailed Summary Page and on a supporting Schedule B of the report covering the period in which they are made. Redesignations and reattributions are reported as memo entries on Schedule A of the report covering the period in which the authorization for the redesignation and/or reattribution is received. (11 CFR §104.8(d)(2), (3) and (4))

The acceptance of excessive contributions is a serious problem. Again, the committee's procedures for processing contributions should be examined and corrected in order to avoid this problem. Although the Commission may take further legal action, prompt action by you to refund or seek redesignation and/or reattribution of the excessive amount will be considered.

-While it is permissible for a person to make a contribution for the general election prior to the primary election, the recipient committee must employ an acceptable accounting method to distinguish between primary and general election contributions. 11 CFR §102.9(e) This general election amount should be maintained in the committee's account.

If the candidate does not participate in the general election, any contribution received for the general election must be returned to the donors, redesignated or reattributed in accordance with 11 CFR §§110.1(b)(5), 110.2(b)(5) or 110.1(k)(3), as appropriate. The use of general election contributions to pay primary debts and obligations is prohibited under the Act as such use could result in individuals making contributions with respect to the primary election in excess of the \$1,000 per election limit. Any subsequent report(s) filed with the Commission should disclose the refund, redesignation or reattribution of any general election contribution. Refunds, redesignations, or reattributions must be done within sixty days after the September 17, 1996 Primary Election.

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COMMITTEE TO ELECT PHILIP JOHNSTON
FOR CONGRESS
PAGE 3

-Columns A and B, Line 7(a) of the Summary Page should equal Columns A and B, Line 17 of the Detailed Summary Page.

-A review of your itemized receipts indicates a discrepancy in your aggregate year-to-date totals. The reported aggregate totals on your report should include all contributions from an individual or committee given in the calendar year 1996. Please review your procedures for compliance with this requirement and amend your report(s) as necessary.

-Please provide a Schedule B to support the amount reported on Line 19(a), Column A, of the Detailed Summary Page. Each loan payment made by the committee must be itemized on a supporting Schedule B, regardless of the amount of the payment. (11 CFR §104.3(b)(4)(iii) and (iv))

-You must attempt to obtain the occupation and name of employer for all individuals who contribute more than \$200 in a calendar year.

A committee may establish "best efforts" by providing the Commission with a description of its procedures for requesting the information and may also supply a copy of a solicitation: The committee must request the contributor information in initial solicitations; make follow-up requests (if necessary); report the information; and file amendments to disclose previously unreported information. Each solicitation must include a clear and conspicuous request for the information. If a committee receives a contribution that exceeds the \$200 threshold but lacks contributor information, the committee must, within 30 days, make an additional written or oral request for the information. Please note that a written request may not include an additional solicitation or material on any other subject, other than thanking the contributor for the donation and must include a pre-addressed return post card or envelope for the contributor's response. An oral request must be documented in writing. Committees must also disclose information that was not provided by the contributor, but is available in any of the committee's records for that current election cycle. Furthermore, if a committee receives contributor information after the contributions have been reported, it must submit, with its next report, an amended memo Schedule A listing all the contributions for which additional information was received or file, on or before the next reporting

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COMMITTEE TO ELECT PHILIP JOHNSTON
FOR CONGRESS
PAGE 4

date, amendments to the previous reports on which the contributions were originally disclosed. See 11 CFR §104.3(a)(4)(i) and 11 CFR §104.7.

-On Schedule B of your report, you have itemized disbursements for which you have failed to include the address or purpose. Please amend your report to include the missing information. (11 CFR §104.3(b)(4))

-When a committee reports receiving a loan from the candidate, it is necessary to clarify whether or not the candidate used personal funds or borrowed the money from a lending institution or some other source. If the candidate borrowed funds from a lending institution, or other source, please provide the name of the lending institution and the complete terms of the loan. Additionally, for loans from a lending institution, you must file an FEC FORM C-1 (copy attached) and a copy of the loan agreement. If the loan(s) was from personal funds, please acknowledge that fact in an amendment to this report. It is important to note that "personal funds" is strictly defined by Commission Regulations. See 11 CFR §110.10. (11 CFR §§100.7(a)(1) and 104.3(d))

-Schedule C of your report fails to include information required by Commission Regulations. You must provide the date incurred, the original source and amount of the loan, the due date, the interest rate, the cumulative payment, and the outstanding balance. In addition, if there are any endorsers or guarantors, their mailing address along with the name of their employer and occupation must be disclosed. Please amend your report to include the due date and interest rate. (11 CFR §§100.7(a)(1) and 104.3(d))

-For future reports, please be advised that you should provide the complete name of any political committee that has contributed to your committee. Reporting only the name of the connected organization is inadequate.

2.6.
-Schedule A of your report indicates that your committee may have failed to file one or more of the required 48 hour notices regarding "last minute" contributions received by your committee after the close of books for the 12 Day Pre-Primary report. A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of \$1,000 or more received between two and twenty days before an election. These

COMMITTEE TO ELECT PHILIP JOHNSTON
FOR CONGRESS
PAGE 5

contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of \$1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions received during the aforementioned time period. Although the Commission may take legal action, any response you wish to provide concerning this matter will be considered. (11 CFR §104.5(f))

D.H.

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Federal Election Commission within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,



Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

404

96045700629

134 Tilden Road
 P.O.Box 909
 Marshfield, MA 02050-0909

RECEIVED
 FEDERAL ELECT
 COMMISSION
 MAIL ROOM

JAN 7 9 20 AM '97

Pat Sheppard
 Senior Reports Analyst
 Federal Electio Commission
 999 E Street N.W.
 Washington DC 20463

IDENTIFICATION #: C00312330

Dear Ms. Sheppard,

This letter follows our telephone conversation this morning during which you asked me to write the information we discussed. This references your letters to my treasurer re: (1) JULY Quarterly Report, 4/1/96 - 6/30/96; (2) October Quarterly Report, 8/29/96 - 10/13/96; and (3) 12 Day Pre-Primary Report, 7/31/96 - 8/28/96.

First, let me re-iterate the unusual circumstances that led to my conducting a partial, or an abbreviated General Election campaign. I won the Primary election on September 17, 1996. The losing candidate requested a recount which was held over the next two weeks; I was again declared the winner. From September 18, 1996 through October 11, 1996 I conducted a General Election campaign. On October 11, 1996 in late afternoon, a Massachusetts judge reviewed some disputed ballots and awarded enough of them to the heretofore losing candidate to give him the numerical lead. There was a three day wait over that weekend while the Supreme Judicial Court reviewed what had happened on October 11. On October 14, 1996, that panel of judges upheld the October 11 decision and I officially terminated my General Election campaign. The next day my campaign staff, my wife in particular, phoned the F.E.C. to ask how all future contributions should be handled. This unusual circumstance was not directly addressed in the F.E.C. literature which we read thoroughly. While it is possible to deduce the answer, we wanted to hear an F.E.C. opinion. The F.E.C. staffer told us that any contributions given after October 14, 1996 must be for "Primary Debt Retirement" and should bear that designation on the check, preferably, or on accompanying written notes. The F.E.C. staffer also re-explained the maximums allowable. My treasurer and I have reviewed every contribution subsequent to October 14 to assure compliance.

To respond to the items in this letter's first paragraph, #1 pertains Elia Lipton who donated an aggregate of \$1500 in three separate contributions of \$1,000; \$250; and \$250. The second and third contributions are for the General Election. However, a manual, clerical, inputting error shows the "x" next to the word "Primary" on the accompanying page. I have corrected it on paper (attached) and will correct it in the computer data base.

198043997.03.165.0358

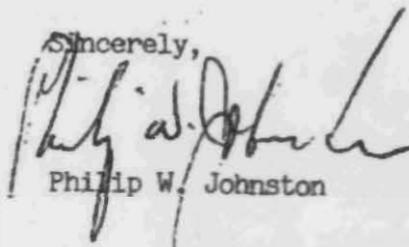
Number #2 pertains to Thomas Glynn who donated \$1,000 on 6/24/96. A second donation for \$1,000 was solicited, given and received after September 18 for the General Election. However, a manual, clerical, inputting error shows the "x" next to the word "Primary" on the accompanying page. I have corrected it on paper (attached) and will correct it in the computer data base.

Number #3 pertains to the report covering 7/31/96 to 8/28/96, your letter questions the source of my loans to the campaign. In that time period I loaned the campaign \$26,000 on 8/23/96 from personal savings..

Numbers 1 and 2 above show contributions within the allowable limits, and #3 answers your question as I understand it.

Thank you for assisting me on the telephone today. I am sending my treasurer a copy of this letter to you. If at any time you find it useful to talk in addition to written correspondence, please feel free to call me at (617)834-6948.

Sincerely,



Philip W. Johnston

98043997-033-165-0359

MEMORANDUM TO FILES:

DATE: January 13, 1997

Telecon

NAME OF THE COMMITTEE:

Committee to Elect Philip Johnston
for Congress

FEC REPRESENTATIVE:

Pat Sheppard

COMMITTEE REP: Mrs. Philip W. Johnston (candidate's wife)
(617) 338-2726

I called the candidate to get additional information on the loans that they failed to report on the required 48 Hour Notices. Mrs. Johnston stated that her husband was at work but she was familiar with the January 7, 1997 response because she had typed it. I asked her to clarify the source of the loans. She stated that the loans were the result of a home equity loan they had taken out because they had depleted their funds. She also stated that she was not sure whether all the 48 hour notices were filed but that she would check into the matter and get back with me as soon as possible.

9 0 0 4 3 9 0 0 6 3 2

FEDERAL ELECTION COMMISSION MAIL ROOM

FEC ID # C00312330

JAN 22 9:07 AM '97 FAX COVER SHEET

Date: 1-17-97 Time: 10:30 AM

To: PAT Sheppard
F.E.C.
999 E STREET NW
Of: Washington DC 20463
Fax #: (202) 219-3496

From: Beverly Johnston
Committee to Elect Philip Johnston to Congress
Of:
Fax #: (617) 834-3876

Number of Pages (including cover sheet) 10 (ten)

Message: PURSUANT to our phone conversation 5 or 6 days ago, I am sending you two forms - (1) FEC Form 6 - (2) Schedule C-1 with 8 accompanying relevant bank documents. The bank has a copy of all this as well and stands ready to assist you if you have need for further information. Also, I am mailing via U.S. Postal Service today these same documents. Note: 5 of these 10 pages are 8 1/2" x 14". I hope your fax can receive them. In any event, they will all arrive by mail. Also, the FEC Form 6 is an older copy of a thermo fax, but I think it's legible. THANK YOU

93043900633

48 HOUR NOTICE OF CONTRIBUTIONS/LOANS RECEIVED

(See Reverse Side for Instructions)

To be used to report all contributions (including loans) of \$1000 or more received within 20 days of the election.

1. NAME OF COMMITTEE IN FULL
COMMITTEE TO ELECT PHILIP JOHNSTON TO CONGRESS

2. ADDRESS (number and street)
1880 OCEAN ST. P.O. Box 709

3. CITY, STATE, and ZIP CODE
MARSHFIELD MA 02050

4. NAME OF CANDIDATE
Philip W. Johnston

5. OFFICE BOUNDARY (State and District)
0606855

6. FEC IDENTIFICATION NUMBER
000312330

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes other than using the name and address of any political committee to solicit contributions from such committee.

A. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount
PHILIP W. JOHNSTON TILDEN ROAD MARSHFIELD MA 02050	SELF	9/6/96	LOAN 45,000.00
PHILIP W. JOHNSTON TILDEN ROAD MARSHFIELD MA 02050	SELF	9/6/96	LOAN 6,000.00
/	/	/	/
/	/	/	/
/	/	/	/

SIGNATURE (optional)
Francis A. Hutch

DATE
9/6/96

For further information contact:
 Federal Election Commission
 1100 E Street, NW, Washington, DC 20483
 Toll Free 800-424-9530, Local 202-218-3420

FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, DC 20463

FEL
JAN 11 11 40 AM '98

FIRST GENERAL COUNSEL'S REPORT

RAD REFERRAL: 97L-14
DATE ACTIVATED: January 15, 1998

STAFF MEMBER: Mark Shonkwiler
Stephanie King

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Committee to Elect Philip Johnston for Congress
and Frances A. Smith, as Treasurer

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

98043900635

I. GENERATION OF MATTER

The Office of the General Counsel received a referral from the Reports Analysis Division ("RAD") on July 16, 1997. The basis for the referral is the failure of Committee to Elect Philip Johnston for Congress ("Committee") and Frances A. Smith, as treasurer, to file a 48 Hour Notification ("48 Hour Notice") for two candidate loan contributions totaling \$51,000. The candidate, Philip Johnston, lost the 1996 Primary Election in the State of Massachusetts with thirty six percent (36%) of the vote.

II. FACTUAL AND LEGAL ANALYSIS

Based on the Factual and Legal Analysis, see Attachment 1, this Office recommends the Commission find reason to believe the respondents violated 2 U.S.C. § 434(a)(6)(A).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

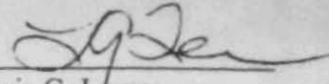
In addition to the reason to believe recommendation, this Office recommends that the Commission offer to enter into conciliation with the respondents prior to a finding of probable cause to believe. Attached for the Commission's approval is a proposed conciliation agreement

IV. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that Committee to Elect Philip Johnston for Congress and Frances A. Smith, as treasurer, violated 2 U.S.C. §434(a)(6)(A) and enter into conciliation prior to finding of probable cause to believe.
3. Approve the attached Factual and Legal Analysis, proposed conciliation agreement, and the appropriate letter.

Lawrence M. Noble
General Counsel

3/3/98
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:

1. Factual and Legal Analysis
2. Proposed Conciliation Agreement

96043900636

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Committee to Elect Philip Johnston)
for Congress and Frances A. Smith,)
as Treasurer.)

MUR 4726
RAD Referral
#97L-14

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on March 10, 1998, the Commission decided by a vote of 5-0 to take the following actions in RAD Referral #97L-14:

1. Open a MUR.
2. Find a reason to believe that Committee to Elect Philip Johnston for Congress and Frances A. Smith, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) and enter into conciliation prior to finding of probable cause to believe.
3. Approve the Factual and Legal Analysis, proposed conciliation agreement, and the appropriate letter, as recommended in the General Counsel's Report dated March 3, 1998.

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

Attest:

3-10-98
Date

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

Received in the Secretariat: Wed., March 04, 1998 11:22 a.m.
Circulated to the Commission: Wed., March 04, 1998 4:00 p.m.
Deadline for vote: Mon., March 09, 1998 4:00 p.m.

lrd

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

March 16, 1998

Frances A. Smith, Treasurer
Committee to Elect Philip Johnston
for Congress
426 Webster Street
Marshfield, MA 02050

RE: MUR 4726

Dear Mr. Smith:

On March 10, 1998, the Federal Election Commission found that there is reason to believe the Committee to Elect Philip Johnston ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

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

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Frances A. Smith
MUR 4726
Page 2

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

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

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Stephanie King, the paralegal assigned to this matter, at (202) 694-1650.

Sincerely,



Scott E. Thomas
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

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FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Committee to Elect Philip Johnston
 for Congress and Frances A. Smith, as Treasurer

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

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate or the Commission, as appropriate, and the Secretary of State of the appropriate state, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.

2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. Id. The notification of these contributions shall be in addition to all other reporting requirements.

2 U.S.C. § 434(a)(6)(B).

The Primary Election in the state of Massachusetts was held on September 17, 1996. Pursuant to the Act, the respondents were required to notify the Commission, in writing, of all contributions of \$1,000 or more received from August 29, 1996 to September 14, 1996, within 48 hours of their receipt. A review of the Committee's Reports identified several 48 Hour

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Notices for contributions received during this period. A 48 Hour Notice for contributions was received on September 9, 1996, but it did not include two September 6, 1996 candidate loan contributions for \$45,000 and \$6,000.

The respondents claim to have submitted a 48 Hour Notice for the \$51,000 in candidate loan contributions on September 7, 1996, but the Commission has no record of such a filing. On January 22, 1997, in response to repeated inquiries from the Reports Analysis Division, the Committee submitted a copy of a 48 Hour Notice dated September 7, 1996. The Committee, however, did not submit any proof that this 48 Hour Notice previously was sent to the Commission. In absence of such information there is reason to believe that the Committee failed to submit a timely 48 Hour Notice for the \$51,000 in candidate loan contributions.

According to 2 U.S.C. § 431(8)(A) and 11 C.F.R. § 100.7(a)(1)(B), a loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. The Primary Election in the state of Massachusetts was held on September 17, 1996. Pursuant to the Act, the Respondents were required to notify the Commission, in writing, of all contributions of \$1,000 or more received from August 29, 1996 through September 14, 1996, within 48 hours of their receipt. The Committee did not submit a 48 Hour Notice for the September 6, 1996 \$51,000 candidate loan contributions received until January 22, 1997.

Therefore, there is reason to believe that the Committee to Elect Philip Johnston for Congress and Frances A. Smith, as treasurer, violated 2 U.S.C. §434(a)(6)(A) by failing to report campaign contributions of 1,000 or more, received after the 20th day, but more than 48 hours before the general election, within 48 hours of receipt of the contribution.

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STATEMENT OF DESIGNATION OF COUNSEL

MOR 4726

NAME OF COUNSEL: NICK LITTLEFIELD

ADDRESS: FOLEY, HOAG & ELIOT
ONE POST OFFICE SQUARE
BOSTON, MA 02109

TELEPHONE: 617-832-1105

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

APRIL 2, 1998
Date

Philip W. Johnston
Signature

RESPONDENT'S NAME: PHILIP JOHNSTON

ADDRESS: 426 WEBSTER STREET
MARSHFIELD, MA 02050

HOME PHONE:

BUSINESS PHONE:

98043900642

Refer OGC thru OCS

FOLEY, HOAG & ELIOT LLP
ONE POST OFFICE SQUARE
BOSTON, MASSACHUSETTS 02109-2170

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

APR 14 12 32 PM '98

1615 L STREET, N.W., SUITE 850
WASHINGTON, D.C. 20036
TEL: 202-775-0600
FAX: 202-857-0140

TELEPHONE 617-832-1000
FACSIMILE 617-832-7000
<http://www.fhe.com>

Nick Littlefield
(617) 832-1105
nickl@fhe.com

April 8, 1998

Scott E. Thomas, Chairman
Federal Election Commission
Washington, DC 20463

Re: MUR 4726

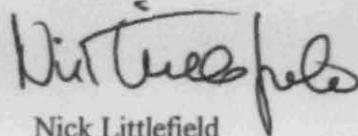
Dear Mr. Thomas:

I write to request a 20-day extension to respond to your recent inquiry of the Committee to Elect Philip Johnston (Committee).

A former committee staff member has been searching for materials relevant to your consideration of this matter. Acquiring the materials, some of which must be obtained from a third party, will take longer than the fifteen days currently permitted to respond to your inquiry.

Please contact me at (617) 832-1105 or Jeff Huang, Legal Assistant, at (617) 832-1778 if you have any further concerns.

Sincerely,



Nick Littlefield

cc: Stephanie King

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FEDERAL ELECTION
COMMISSION
SECRETARIAT



FEDERAL ELECTION COMMISSION
Washington, DC 20463

April 16, 1998

Mr. Nick Littlefield
Foley, Hoag & Eliot, LLP
One Post Office Square
Boston, Massachusetts 02109-2170

RE: MUR 4726
Committee to Elect Philip Johnston
for Congress and Frances A. Smith
as Treasurer

Dear Mr. Littlefield :

This is in response to your letter dated April 8, 1998, which we received on April 9, 1998, requesting an extension of 20 days to respond to the Commission notification letter of reason to believe in the above referred MUR. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response to the Commission March 16, 1998 letter is due by the close of business on April 24, 1998.

If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Stephanie King
Stephanie King
Paralegal Specialist

96043900644

FOLEY, HOAG & ELIOT LLP

ONE POST OFFICE SQUARE
BOSTON, MASSACHUSETTS 02109-2170

TELEPHONE 617-832-1000
FACSIMILE 617-832-7000
<http://www.fhe.com>

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
AUG 24 3 08 PM '98

1615 L STREET, N.W., SUITE 850
WASHINGTON, D.C. 20036
TEL: 202-775-0600
FAX: 202-857-0140

Nick Littlefield
(617) 832-1105
nickl@fhe.com

August 20, 1998

BY FACSIMILE AND U.S. MAIL

Mark Shonkwiler, Attorney
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 4726: Committee to Elect Philip Johnston for Congress and
Frances A. Smith, Treasurer

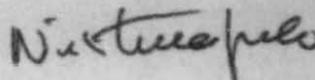
Dear Mark:

Enclosed is the Conciliation Agreement executed by the Johnston campaign together with my letter describing the circumstances surrounding the matter.

I appreciate your suggestion that we provide such a letter and your assurances that it will be included with the Conciliation Agreement in any public file retained by the FEC.

Please keep me posted on the schedule for consideration of this matter by the FEC and additional steps we need to take to close the matter.

Very truly yours,



Nick Littlefield

NYL:cw
Enclosures

cc: Philip W. Johnston

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FOLEY, HOAG & ELIOT LLP

ONE POST OFFICE SQUARE
BOSTON, MASSACHUSETTS 02109-2170

Nick Littlefield
(617) 832-1105
nickl@fhe.com

TELEPHONE 617-832-1000
FACSIMILE 617-832-7000
<http://www.fhe.com>

1615 L STREET, N.W., SUITE 850
WASHINGTON, D.C. 20036
TEL: 202-775-0600
FAX: 202-857-0140

August 20, 1998

BY FACSIMILE AND U.S. MAIL

Mark Shonkwiler, Attorney
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 4726: Committee to Elect Philip Johnston for Congress and
Frances A. Smith, Treasurer

Dear Mr. Shonkwiler:

This letter is in response to your suggestion that we write on behalf of the Committee to Elect Philip Johnston for Congress and Frances A. Smith, Treasurer ("Respondents") to describe particular facts we have previously discussed with you which underlie the accompanying conciliation agreement. You advised us that such letter would be included with the conciliation agreement in any public file.

Most important is the fact that the Commission has written us that, "The Commission has no information which suggests that the [Respondents'] violations were either knowing or willful."

The following are some additional facts that relate to the Commission's conclusion that any violation was not "knowing or willful."

On September 6, 1996, the Respondents received two candidate loan contributions of \$1,000 or more totaling \$51,000. These loans were funded by the proceeds from the candidate taking out a second mortgage on his home in Marshfield, MA. As stated in the conciliation agreement, Respondents contend that a 48 Hour Notice was faxed to the Commission for these candidate loan contributions, as they faxed other similar notices to the Commission for other contributions during the last weeks of the campaign and throughout the rest of the campaign, in the ordinary course of business and pursuant to the Federal Election Campaign Act of 1971, as amended ("the Act").

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Mark Shonkwiler
August 20, 1998
Page 2

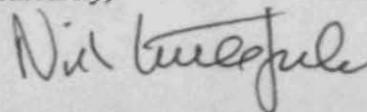
On December 17, 1996 the Commission wrote Respondents requesting a copy of the 48 Hour Notice for the September 6, 1996 loan contributions. This letter from the Commission marked the first time the Respondents were made aware by the Commission that the 48 Hour Notice for the September 6, 1996 loan contributions had not been received by the Commission. Respondents provided the Commission, via facsimile and mail, a copy of the 48 Hour Notice in question which they had retained in their files. The Commission has advised the Respondents that until it received this original document following the December 17, 1996 request, it did not have a copy of the 48 Hour Notice in question in its files.

As stated above, Respondents retained the 48 Hour Notice in question in their files and believe they faxed it in a timely fashion to the Commission, as with other such reports. The possibility exists that Respondents faxed the form to the Commission, but the fax was not received by the Commission. Unfortunately, complete telephone records, which might demonstrate that the 48 Hour Notice was faxed as believed, are no longer retained by the telephone company and are therefore not available to Respondent. Unfortunately, at this time, neither Respondents nor, in fact, the Commission, can prove that the 48 Hour Notice in question was, or was not, faxed to the Commission by Respondents.

The Respondents had no intention not to disclose either candidate loan contributions or last-minute contributions. As stated in the conciliation agreement, the Commission has in its files, copies of all other such notices, demonstrating that Respondents filed notices for each and every other such contribution to the Commission as required. If the Commission did not receive the faxed 48 Hour Notice from September 6, 1996, it is the only one the Commission did not receive from Respondents.

The Commission has advised us that it acts on the presumption that if a filing is not retained in the Commission's files, then it was not sent or faxed by a campaign. As stated above, Respondents cannot prove at this date that such submission was made. Therefore, in order to resolve this matter without incurring additional expense to either party, and in view of the Commission's presumption, Respondents have agreed to enter into the accompanying conciliation agreement.

Sincerely,



Nick Littlefield
Attorney for Respondents

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RECEIVED
FEDERAL ELECTION
COMMISSION
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BEFORE THE FEDERAL ELECTION COMMISSION

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In the Matter of)
) MUR 4726
Committee to Elect Philip Johnston for)
Congress and Frances A. Smith, as Treasurer)

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a revised conciliation agreement which has been submitted on behalf of the Committee to Elect Philip Johnston for Congress and Frances A. Smith, as treasurer ("the Committee"). On March 10, 1998, the Commission found reason to believe that Respondents violated 2 U.S.C. § 434(a)(6)(A) by failing to file a 48-Hour Notification for two candidate loans totaling fifty-one thousand dollars (\$51,000). The Commission simultaneously entered into conciliation prior to a finding of probable cause to believe and approved a conciliation agreement

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the Office of the General Counsel

recommends that the Commission accept the conciliation agreement submitted by the Committee, and close the file in MUR 4726.

II. DISCUSSION

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the Office of the General Counsel recommends that the Commission accept this conciliation agreement and close the file.

III. RECOMMENDATIONS

1. Accept the attached conciliation agreement with the Committee to Elect Philip Johnston for Congress and Frances A. Smith, as treasurer.
2. Approve the appropriate letters.
3. Close the file.

Lawrence M. Noble
General Counsel

9/17/08
Date

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

1--Conciliation Agreement

Staff Assigned: Mark Shonkwiler
Stephanie Watson

98043900650

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Committee to Elect Philip Johnston) MUR 4726
for Congress and Frances A. Smith,)
as Treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on September 23, 1998, the Commission decided by a vote of 5-0 to take the following actions in MUR 4726:

1. Accept the conciliation agreement with the Committee to Elect Philip Johnston for Congress and Frances A. Smith, as treasurer, as recommended in the General Counsel's Report dated September 17, 1998.
2. Approve the appropriate letters, as recommended in the General Counsel's Report dated September 17, 1998.
3. Close the file.

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

Attest:

Sept. 23, 1998
Date

Mary H. Dove
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat: Thurs., Sept. 17, 1998 4:20 p.m.
Circulated to the Commission: Fri., Sept. 18, 1998 12:00 p.m.
Deadline for vote: Wed., Sept. 23, 1998 4:00 p.m.

lrd

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

Nick Littlefield
Foley, Hoag, & Eliot, LLP
One Post Office Square
Boston, MA 02109

September 25, 1998

RE: MUR 4726: Committee to Elect Philip Johnston
for Congress and Frances A. Smith, as Treasurer

Dear Mr. Littlefield:

On September 23, 1998, the Federal Election Commission accepted the signed conciliation agreement submitted on your client's behalf in settlement of a violation of 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Please note that the civil penalty is due within 30 days of the conciliation agreement's effective date. If you have any questions, please contact me at (202) 694-1650.

Sincerely,

Stephanie Watson
Stephanie Watson
Paralegal Specialist

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4726
Committee to Elect Philip Johnston for)
Congress and Frances A. Smith, as Treasurer)

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Committee to Elect Philip Johnston for Congress and Frances A Smith, as Treasurer ("Respondents"), violated 2 U.S.C. § 434(a)(6)(A).

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

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

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

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

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

1. Committee to Elect Philip Johnston for Congress is a political committee within the meaning of 2 U.S.C. § 431(4), and is the authorized principal campaign committee for Philip Johnston's 1996 congressional campaign.

2. Frances A. Smith is the treasurer of Committee to Elect Philip Johnston for Congress.

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

4. On September 6, 1996, Respondents received two candidate loan contributions of \$1,000 or more totaling \$51,000. These candidate loan contributions were received less than 20 days, but more than 48 Hours, before the September 17, 1996 primary

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election in the state of Massachusetts. Respondents failed to file a 48 Hour Notice for the two candidate loan contributions.

5. Respondents contend that any failure to file a 48 Hour Notice for the two September 6, 1998 candidate loan contributions was inadvertent.

6. On December 17, 1996, the Commission notified Respondents of various issues relating to its October 1996 Quarterly Report, including Respondents' failure to file a 48 Hour Notice for the two September 6, 1996 loan contributions. On January 22, 1997, Respondents sent the Commission a copy of a document in the form of a 48 Hour Notice dated 9/7/96, which they contended had been retained in their files and which they believed, based on their ordinary practice, to have been faxed to the Commission in a timely fashion. The Commission subsequently advised Respondents that it never received a copy of this document prior to January 22, 1997. Respondents now have informed the Commission that they cannot at this time offer any proof that this document was submitted in a timely fashion.

7. Notwithstanding their failure to file a 48 Hour Notice for the two September 6, 1996 candidate loan contributions, Respondents otherwise demonstrated compliance with 2 U.S.C. 434(a)(6)(A) in filing 48 Hour Notices for contributions of \$1,000 or more, (including loan contributions from the candidate) received by the authorized committee of the candidate after the 20th day but more than 48 hours before the 1996 primary election. Specifically, Respondents submitted, and the Commission received the following 48 Hour Notices for contributions of \$1000 or more:

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<u>Date of 48 Hour Notice</u>	<u>Amount of Contribution</u>
9/02/96	\$ 3,000
9/09/96	\$ 1,000
9/12/96	\$37,000
9/15/96	\$ 5,000
9/16/96	\$ 3,000
9/18/96	\$ 1,000
9/24/96	\$ 4,000
9/25/96	\$ 1,000

8. Respondents also submitted, and the Commission received appropriate notices for the following candidate loan contributions:

<u>Date</u>	<u>Amount of Loan Contribution</u>
2/1/96	\$10,000
6/27/96	\$25,000
8/23/96	\$26,000
9/9/96	\$21,000
9/11/96	\$14,000

9. Respondents included the September 6, 1996 loan contributions in the aggregate amount of loan contributions listed in their next Quarterly Report (FEC Form 3) filed on October 15, 1996, one month after the primary election.

V. Respondents failed to report campaign contributions of \$1,000 or more received after the 20th day, but more than 48 hours before the primary election, within 48 hours of receipt of the contributions in violation of 2 U.S.C. § 434(a)(6)(A).

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

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

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

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

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

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

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

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

September 25, 1998
Date

FOR THE RESPONDENTS:

Frances A. Smith
(Name)
(Position) Treasurer

T 8/20/98
Date

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4726

DATE FILMED 10/8/98 CAMERA NO. 2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Date: 10/20/98

 Microfilm

 Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 4726

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COMMITTEE TO ELECT PHILIP JOHNSTON FOR CONGRESS

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FEDERAL ELECTION
COMMISSION MAIL ROOM
Oct 16 12 30 PM '98

October 13, 1998

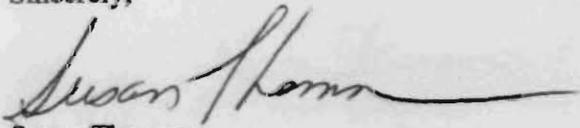
Stephanie Watson
Federal Elections Commission
Washington DC 20463

Oct 20 10 00 AM '98

Dear Stephanie:

Attached is the check for \$4000.00 from the Committee to Elect Philip Johnston for Congress as required by the conciliation agreement : MUR 4726.

Sincerely,



Susan Thomson
Campaign Manager
Committee to Elect Philip Johnston for Congress

RECEIVED
FEDERAL ELECTION
COMMISSION
ACCOUNTING OFFICE
Oct 16 2 27 PM '98

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COMMITTEE TO ELECT
PHILIP JOHNSTON TO CONGRESS
P.O. BOX 909
MARSHFIELD, MA 02050

635

5-7017/2110
873

10/13 1998

PAY TO THE
ORDER OF

Federal Election Commission \$ 4000.00
Four thousand dollars + ⁰⁰/₁₀₀ DOLLARS

 CITIZENS BANK
Massachusetts

FOR MUR 4726

Frances A. Smith

⑆2⑆⑆070⑆75⑆ ⑆⑆03354873⑆0⑆ 0635



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 20, 1998

OCT 20 10 00 AM '98
FEDERAL ELECTION COMMISSION

TWO WAY MEMORANDUM

TO: OGC Docket
FROM: Rosa E. Swinton
Accounting Technician
SUBJECT: Account Determination for Funds Received

We recently received a check from **Committee to Elect Philip Johnson for Congress**, check number **635**, dated **October 13, 1998**, for the amount of **4,000.00**. A copy of the check and any correspondence is being forwarded. Please indicate below which account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

=====

TO: Rosa E. Swinton
Accounting Technician
FROM: OGC Docket
SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of \$ 4000.00, the MUR/Case number is 4726 and in the name of Committee to Elect Philip Johnson for Congress Place this deposit in the account indicated below:

- Budget Clearing Account (OGC), 95F3875.16
- Civil Penalties Account, 95-1099.160
- Other: _____

Rosa E. Swinton
Signature

10-20-98
Date

980043900712