FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 516

DATE: 4/8/78

FILM: Y.A.Q.

FEDERAL ELECTION COMMISSION

Internal Memorandum

Duplicate letters and certification

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):

____	(1) Classified Information	____	(6) Personal privacy
____	(2) Internal rules and practices	____	(7) Investigatory files
____	(3) Exempted by other statute	____	(8) Banking Information
____	(4) Trade secrets and commercial or financial information	____	(9) Well Information (geographic or geophysical)
X	(5) Internal Documents		

Signed Eugene M Callahan

date 19 October 1978

FEC 9-21-77

7804002811

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 516 (78)
Ed Young in '76 Committee	)	
South Carolina National Bank	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on October 18, 1978, the Commission meeting in Executive Session determined by a vote of 5-0 to close the file in MUR 516 (78).

Commissioner Springer was not present at the time of the vote.

Attest:

10/18/78
Date

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

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

DATE: OCTOBER 12, 1978

SUBJECT: MUR 516 - General Counsel's Report dated 10-5-78; Received in Office of Commission Secretary 10-6-78, 5:10

The above-named document was circulated on a 48 hour vote basis at 12:30, October 10, 1978.

Commissioner Aikens submitted an objection at 9:51, October 12, 1978, thereby placing MUR 516 on the Executive Session Agenda for October 18, 1978.

cc: Commissioner Aikens

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October 6, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 516

Please have the attached General Counsel's Report on MUR 516 distributed to the Commission on a 48 hour tally basis.

Thank you.

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BEFORE THE FEDERAL ELECTION COMMISSION
October 5, 1978

In the Matter of	)	
	)	
	)	MUR 516 (78)
Ed Young in '76 Committee	)	
South Carolina National Bank	)	

GENERAL COUNSEL'S REPORT

ALLEGATION

The above captioned matter was internally generated by the Office of General Counsel based on the fact that the Ed Young in '76 Committee ("the Committee") accepted loans from the South Carolina National Bank ("the Bank") and did not adequately report the nature of the loans as set forth in 2 U.S.C. §434(b)(12) and, since it appeared that the loans might fall outside the scope of ordinary banking practices, the guarantor, Edward Young, and the South Carolina National Bank may be involved in the transaction of contributions in violation of 2 U.S.C. §441b.

PREVIOUS COMMISSION ACTION

March 8, 1978	7 Day Report recommending reason to believe the committee may have violated §434(b) and reason to believe that the committee and the Bank may have violated §441b circulated on a no-objection basis.
	7 Day Report objected to and placed on March 23 agenda.
March 23, 1978	Commission voted to defer action in this matter until receipt of the Committee's April 10, 1978, quarterly report.
June 2, 1978	General Counsel's Report recommending reason to believe the Committee may have violated §434(b) and reason to believe that the Committee and the Bank may have violated §441b resubmitted to the Commission.
	Commission voted to return report to the Reports Analysis Division for circulation to the Commission of an RFAI to be sent to the Committee.

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June 28, 1978	Commission approved the General Counsel's recommendation to take no further action in this matter until the Reports Analysis Division receives response to the RFAI.
August 9, 1978	Reports Analysis Division sent RFAI to the Committee.
August 24, 1978	Response to the RFAI received by the Reports Analysis Division.
September 11, 1978	Office of General Counsel recieved RFAI response from Reports Analysis Division.

BACKGROUND

Various loans were received by the Committee from the Bank between September 7, 1976, and November 2, 1976, which amounted to $105,925.00. The Committee failed to report the endorser(s) or guarantor(s) of the loans in question until it was notified to do so by the Commission. Subsequent to receipt of an RFAI, the Committee disclosed the guarantor as Edward Young and the nature of the loans received on September 7, September 17, and October 1, 1976, in the amounts of $9809.70, $4915.81, and $19009.58, respectively, as 90 Day Notes. Additionally, the Committee reported receiving loans from the Bank in the amounts of $25,468.78 and $46,720.93 on October 19 and November 2, 1976 respectively. Edward Young, the guarantor, was not reported until May 4, 1977, subsequent to receipt of an RFAI.

Three interest payments were made by the Committee to the Bank in the amounts of $4383.73 on April 1, 1977, $2213.86 on September 26, 1977 and $988.49 on February 9, 1978. On March 31, 1977, the Committee reported $4075.26 in interest owed to the Bank as an obligation, thereby increasing the total amount of its loans to $110,000.

The Committee continued reporting all loans from the Bank as "loans net of interest" with no payments made on the principal

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until the July 10, 1978 report at which time the Committee reported receipt of $110,000 from Edward Young and committee repayment of all loans owed to the Bank in the amount of $110,000.00 on April 14, 1978.

ANALYSIS

2 U.S.C. §434(b)(12) requires that debts and obligations owed by or to a committee be continuously reported until extinguished "...together with a statement as to the circumstances and conditions under which any such debt of obligation is extinguished and the consideration therefore;..."

The Committee's failure to report the consolidation of the loan, the length of the loan term, the interest rate, the collateral and the fact that the candidate assumed the loan as a personal debt until two years subsequent to the action taking place is a violation of 2 U.S.C. §434(b)(12).

Our initial analysis of the Committee's reports indicated that a possible §441b violation had been committed by the Committee and the Bank if the loan transactions had not been made in the ordinary course of business (§441b(b)(2)). This theory was premised on the fact that three of the five loans from the Bank were 90 day notes which appeared to have been outstanding for two years, as well as questions of whether the interest rates and occurrence of interest payments were reasonable.

However, evidence from the Committee's RFAI response indicates the commercial reasonableness of the transactions. In its response, the Committee indicated that the five loans from the Bank were consolidated on November 16, 1976, and assumed by the candidate as a personal debt at 8 percent interest to be paid over a 60 month period. Regular interest payments were made until the loan was repaid in

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July of 1978.

The Committee's response does, however, raise questions concerning the loan repayment by the Committee to the Bank. Specifically, it is not clear from Committee reports (the candidate has waived his reporting requirements (11 CFR 101.3)) whether the $110,000 contribution from Young was from personal funds of the candidate as defined by 11 CFR 110.10 or from some other source.

This office recommends that the Commission find reason to believe a violation of §434(b) has been committed and send the attached notification letter to the committee and candidate, along with the attached questions, concerning the source of Young's contribution to the committee in order that we can ascertain whether further violations have ocurred.

RECOMMENDATION

1. Find reason to believe that the Ed Young in "76 Committee may have violated 2 U.S.C. §434(b)(12).

2. Send the attached notification letters to the Committee and candidate.

6 October 1978
DATE

William C. Oldaker for WCO
General Counsel

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FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James Apple, Treasurer
Ed Young in '76 Committee
P.O. Box 4900
Florence, SC 29502

Re: MUR 516 (78)

Dear Mr. Apple:

The Commission has received your response to the Request for Additional Information (RFAI) which was sent to the Ed Young in '76 Committee ("the Committee") on August 8, 1978, concerning loans made by the South Carolina National Bank to your committee in 1976.

In your response, you have indicated that on November 16, 1976, these loans were consolidated and that Edward Young assumed the $110,000 consolidated loan of the committee at 8 percent interest to be repaid over a 60 month period.

As set forth in 2 U.S.C. §434(b)(12), debts and obligations owed by or to a committee must be continuously reported until extinguished, "... together with a statement as to the circumstances and conditions under which any such debt or obligation is extinguished and the consideration therefore;..."

On October , 1978, the Commission found reason to believe that the Committee's failure to report the consolidation of loans, the length of loan term, the interest rate, the collateral, and the fact that the candidate assumed the loans, until two years subsequent to the action taking place is a violation of 2 U.S.C. §434(b)(12).

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. Please include in your response, a statement as to why the $110,000 loan repayment to the Bank was made through the committee, rather than by the candidate who assumed the loan as a personal debt in 1976.

The Commission is under a duty to investigate this matter expeditiously; therefore, your response should be submitted within ten days after your receipt of this notification.

If you have any questions, please contact Suzanne Callahan, the staff member assigned to this matter, at 202/52304058.

Sincerely,

William C. Oldaker
General Counsel

FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward Lunn Young
P.O. Box 4900
1413 West Evans Street
Florence, SC 29501

Re: MUR 516 (78)

Dear Mr. Young:

This is to advise you that on October , 1978, the Commission found reason to believe that the Ed Young in '76 Committee may have violated 2 U.S.C. §434(b)(12).

Specifically, the Committee did not report the consolidation of the $110,000 in loans, the interest rate and the fact that the loan was assumed by you to be paid over a 60 month period until two years subsequent to the action taking place.

The Committee has also indicated that on November 14, 1978, you contributed $110,000 to your committee. Please be advised that unless the total amount of that contribution is from your personal funds (see the enclosed copy of 11 CFR 110.10) it must be reported by either you or your committee as an obligation until such time as it is extinguished.

Please respond to the following questions concerning the funds at issue within ten days of your receipt of this letter in order that we may resolve this matter:

(a) when and under what conditions did you consolidate and assume the loans and

(b) what was the source of the $110,000 you contributed to the committee on April 14, 1978?

If you have any questions, please contact Suzanne Callahan at 202/523-4058.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

August 11, 1978

MEMORANDUM

TO: Tom Haselhorst

FROM: William Oldaker Bill

SUBJECT: MUR 516 (78)

On July 5, 1978, the attached memorandum, General Counsel's Report and Commission Certification were sent to your office for appropriate action. This is a clarification of the July 5th memorandum as requested by Carol Bowen on August 8, 1978.

It is the understanding of this office that the Commission's intent was for the Reports Analysis Division to send an RFAI to the Ed Young Committee and take no further action with regard to the reporting of loans made from the South Carolina National Bank to Young's Committee.

As soon as a response to the RFAI is received, please forward it to this office. If no response is received by August 28th, please notify this office in writing so that an appropriate recommendation can be made to the Commission.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 516 (78)
Edward Young, Ed Young in '76 Committee and South Carolina National Bank	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on August 7, 1978, the Commission approved by a vote of 5-0 the RFAI attached to the Memorandum from the Assistant Staff Director, Reports Analysis, dated August 1, 1978, regarding the above-captioned matter.

Commissioner Tiernan was not present at the time of the vote.

Date: 8/7/78

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

July 5, 1978

MEMORANDUM

TO: The Reports Analysis Division

FROM: William C. Oldaker
General Counsel

RE: MUR 516 (78) - Edward Young, Ed Young in '76 Committee, South Carolina National Bank

Date: June 26, 1978

On June 21, 1978, the Commission determined to refer MUR 516 to the Reports Analysis Division in order for the matter to be investigated through an RFAI letter. Accordingly, we are attaching the General Counsel's Report with a certification of the Commission's determination.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 516 (78)
Edward Young, Ed Young in	)	
'76 Committee and the South	)	
Carolina National Bank	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on June 28, 1978, the Commission approved by a vote of 6-0 the General Counsel's decision to take no further action with regard to the above-captioned matter until the Reports Analysis Division has received a response to a request for additional information.

Date: 6/28/78

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Received in Office of Commission Secretary: 6-23-78, 4:30
Circulated on 48 hour vote basis: 6-26-78, 12:00

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June 23, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 516

Please have the attached General Counsel's Report on MUR 516 distributed to the Commission on a 48 hour tally basis.

Thank you.

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BEFORE THE FEDERAL ELECTION COMMISSION
June 23, 1978

In the Matter of	)	
	)	
Edward Young, Ed Young in	)	
'76 Committee and the South	)	MUR 516 (78)
Carolina National Bank	)	

GENERAL COUNSEL'S REPORT

On June 20, 1978, the Commission determined to refer this matter to the Reports Analysis Division for further compliance procedures, in the ordinary course of its supervisory responsibilities, with regard to the reporting of loans made from the South Carolina National Bank to the Ed Young in '76 Committee.

Accordingly, the General Counsel's Office will take no further action with regard to this matter until the Reports Analysis Division has received a response to a request for additional information.

Date 23 Jun 1978

William C. Oldaker
General Counsel

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Garr

FEDERAL ELECTION COMMISSION

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

June 29, 1978

MEMORANDUM

TO : THE COMMISSION

THROUGH : ORLANDO B. POTTER OBP

FROM : TOM HASELHORST TH

SUBJECT : EDWARD YOUNG IN '76 COMMITTEE - MUR 516 (78)

On June 21, 1978, the Commission determined to return the abovementioned matter to the Reports Analysis Division for the appropriate action. This is to advise you that a Request for Additional Information has been sent to the committee. Additional information will be forwarded to the Commission upon receipt of a response to our request.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Edward Young; Ed Young in '76 Committee; and South Carolina National Bank	)	MUR 516 (76)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on June 21, 1978, the Commission determined by a vote of 4-2 to return the General Counsel's Report in the above-captioned matter for appropriate review by the Reports Analysis Division and the circulation of an RFAI letter to the Commission on a no-objection basis.

Voting for this determination were Commissioners Aikens, Staebler, Thomson, and Tiernan. Commissioners Harris and Springer dissented.

Attest:

6/26/78
Date

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

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Hold for
Meeting of
6/21

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ECUTIVE SESSION
June 21, 1978

BEFORE THE FEDERAL ELECTION COMMISSION

May 19, 1978

In the Matter of	)	
	)	
Edward Young, Ed Young in '76 Committee, and South Carolina National Bank	)	MUR 516(78)

GENERAL COUNSEL'S REPORT

Summary of Allegations

The Ed Young in '76 Committee (the Committee) accepted loans from the South Carolina National Bank and has not adequately reported the nature of these loans as set forth in 2 U.S.C. §434 (b)(12). Additionally, since it appears that the loans may fall outside the scope of ordinary banking practices, the guarantor, Edward Young and the South Carolina National Bank may be involved in the transaction of contributions in violation of 2 U.S.C. §441b(a).

Background

On March 23, 1978, the Commission determined to defer action, as stated in the Seven Day Report, in this matter until after the April 10, 1978 date for filing of reports by candidates and committees.

On April 13, 1978, the Office of the Clerk, House of Representatives, received the April 10, 1978 Quarterly Report from the Committee. Schedule B of this report disclosed a loan interest payment in the amount of $988.49 made to the South Carolina National Bank on February 9, 1978 (see Attachment A).

Evidence

Edward Lunn Young was an elected Congressman from the

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sixth district of South Carolina in 1972. Mr. Young was a congressional candidate in the general elections of 1974 and 1976, and was defeated in both elections.

The approximate cost of the 1976 campaign was $302,326.83.[1/] Since Mr. Young waived his reporting obligations, the Committee reports the outstanding debts and obligations incurred in the 1976 primary and general elections.

Various loans were received by the Committee from the South Carolina National Bank between September 7,1976 and November 2, 1976, which, in aggregate, amounted to $105,924.74 (see Attachment C). This figure is approximately one-third of the total cost of Mr. Young's 1976 campaign.

On October 27, 1976, the Commission sent a letter requesting additional information pertaining to the October 10 Quarterly Report which failed to provide the(an) endorser(s) or guarantor(s) of loans from the South Carolina National Bank during the relevant reporting period. The Committee's failure to adequately report the nature of the loans as set forth in 2 U.S.C. §434(b)(12) constitutes a violation of that section.

On November 11, 1976, the Office of the Clerk, U.S. House of Representatives, received from the Committee an amended tenth day Report preceding the November 2, 1976 general election, and an amended October 10 Quarterly Report. These amended reports disclosed the guarantor as candidate Edward Young and the nature of the loans received from the South Carolina National Bank on September 7, September 17, and October 1, 1976, in the amounts of $9,809.70, $4,915.81 and $19,009.58, respectively,

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1/ This approximation is derived from the aggregate expenditures as reported on the Committee's 1976 and 1977 Year-End Reports (see Attachment B).

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as 90 day notes (see Attachment D). There has been no notice of extension regarding the status of such loans.

Three interest payments have been made to the South Carolina National Bank from the Committee to date: (1) on April 1, 1977, in the amount of $4,383.73; (2) on September 26, 1977, in the amount of $2,213.86; and (3) on February 9, 1978, in the amount of $988.49. The aggregate interest payments from the Committee to the South Carolina National Bank for approximately eighteen months (September 7, 1976 through March 31, 1978) total $7,576.08. However, no actual repayment of these loans has occurred as of this date.

Addtionally, on the April 10, 1977 Quarterly Report, the Committee listed interest in the amount of $4,075.26 dated March 31, 1977 as a debt and obligation. However, on the Committee's 1977 Year-End Report dated January 16, 1978, this dated amount is listed as a "loan net of interest" on Schedule C, debts and obligations. And finally, on the Committee's April 10, 1978 Quarterly Report, the dated amount is again listed as a loan and not as interest (see Attachment E).

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Legal Analysis

I. Reporting Obligations With Regard to Loans in General

2 U.S.C. §434(b)(12) which was in the original 1971 Senate version of the Federal Election Campaign Act, S.382, requires that debts and obligations owed by or to the committee be continuously reported until extinguished, "...together with a statement as to the circumstances and conditions under which

any such debt or obligation is extinguished and the consideration therefor;..."

In the discussion surrounding the hazards of inadequate reporting requirements with regard to bank loans, a reference in a committee report [S.Rep. No. 92-229, 92d Cong., 1st Sess., p.121 (1971)], in the Supplemental Views on Senators Prouty, Cooper and Scott, states:

> Under the present law, there was a real danger in permitting even bona fide loans to political candidates because in the absence of an effective disclosure law it would be very easy for a bank making a loan never to collect it. S. 382, as amended, has rigid and effective disclosure requirements. All bona fide loans made to political candidates must be reported. The candidate must continue to report his loan until it is fully repaid.

The Commission's regulations which became effective April 13, 1977, include the following provisions relating the reporting of loans, debts, and obligations: §104.2(b)(5) requires the reporting of "Each loan-- (i)(A) To or from any political committee; or (B) To a candidate or his or her authorized committees which is-- (ii)(A) Over $100 in value and made during the reporting period; or (B) Less than $100 in value and the total of loans from one person is over $100 shall be reported together with the identification, occupation, and principal place of business, if any, of each lender, endorser, or guarantor, as the case may be. The report shall include the date and amount of the loan." §104.2(b)(11) requires the reporting of "[t]he amount and nature of outstanding debts and obligations owed by or to the committee including any written contracts, agreements, or promises to make contributions or expenditures, see §104.8." §104.8 requires

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that "(a) Debts and obligations which remain outstanding after the election shall be continuously reported until extinguished, see §104.1(b). These debts and obligations shall be reported on separate schedules together with a statement explaining the circumstances and conditions under which each debt and obligation was incurred or extinguished. (b) A debt, obligation, or other promise to make an expenditure of $500 or less, shall be reported as of the time payment is made or no later than 60 days after incurrence, whichever comes first. A loan of money in the ordinary course of business and any debt or obligation over $500 shall be reported as of the time of the transaction."

Although the regulations, in their entirety, were not effective at the time the loans were made to the Committee from the South Carolina National Bank,[2/] the Commission published the proposed regulations which it approved on July 27, 29, and 30, 1976, and August 5, 1976, and adopted to implement the provisions of the Federal Election Campaign Act of 1971, as amended in 1974 and 1976. The proposed regulations were published on August 19, 1976 and promulgated as such pending approval by the Congress. The language in the above-cited sections of the regulations is identical to the language published on August 13, 1976.

The Committee has not fully complied with the reporting requirements in the Federal Election Campaign Act of 1971, as amended, or the Regulations as proposed on August 5, 1976.

2/ The time period for the loan transactions is September 7, 1976 to November 2, 1976 (General Election Day).

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Specifically, three of the five loans from the South Carolina National Bank to the Committee were initially reported as 90 day notes. To the Commission's knowledge, all or part of these loans have not been repaid as of this date. The condition of repayment of these loans has not been met by the Committee; and the Commission, at the present time, has no indication or statement as to the circumstances and conditions under which any such debt or obligation is extinguished. 2 U.S.C. §434(b)(12); 11 C.F.R. §104.8(a).

Additionally, 11 C.F.R. §104.8(b) requires that any debt or obligation over $500 shall be reported as of the time of the transaction. A review of the Committee's reports reveals that loan transactions in the amounts of $9,809.70, $4,915.01, $19,009.58, $25,468.72 and $46,720.93 were not reported until after the respective reporting deadline dates. (See Attachment F)

In some instances, the Commission was not aware of the nature of the loan transactions until well after the relative reporting period. For example, the tenth day Report preceding the November 2, 1976 general election (filed by the Committee on October 9, 1976) was an inadequate report because it failed to disclose the nature of the loan (i.e. guarantor, endorser) in the amount of $19,009.58 dated October 1, 1976. Subsequent to a request for additional information, the Committee sent an amended tenth day Report preceding the November 2, 1976 general election which was received on November 11, 1976 and which disclosed the guarantor of the loan as Mr. Young. This was

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approximately 44 days after the issuance of this substantial loan and, more importantly, it was disclosed after the election.

II. Loans Made From A National Bank To A Political Committee In the Ordinary Course of Business

At this point of the investigation with regard to the loans in excess of $100,000 made from the South Carolina National Bank to the Committee, it is problematic to determine whether such loans were made in the "ordinary course of business" or in accordance with applicable banking laws and regulations [as defined in 2 U.S.C. §431(e)(5)(G)]. There has been little case law or Commission precedent dealing with this issue. 3/

The case most analagous to the instant matter is Barnard - MUR 218 (76). This matter involved a $10,000 loan from the Georgia Railroad Bank and Trust Company to the respondent's principal campaign committee on an unsecured basis, payable in 180 days at an interest rate of 7.5% per annum. The bank's loan chart provided in response to a request for additional information indicated that the appropriate interest rate for a $10,000 unsecured loan to an individual or association would have been 8-3/4% per annum. 4/

3/ U.S. v. First National Bank of Cincinnati, 329 F. Supp. 1251 (S.D. Ohio 1971); U.S. v. Barket, 530 F.2d 181(8th Cir. 1975); In the Matter of James R. Sasser - MUR 216/239 (76); and In the Matter of Druie Douglas Barnard, Jr. - MUR 218 (76).

4/ See General Counsel's Report, In the Matter of Druie Douglas Barnard, Jr. [MUR 218 (76)] dated October 6, 1977.

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The loan note was signed by the treasurer of the committee. In case of default, the Committee's assets would not have been sufficient to meet the value of the note. The Office of General Counsel recommended reasonable cause to believe that both the bank and the committee violated 2 U.S.C. §441b(a). In the instant matter, the interest rate appears to be below the normal commercial interest rate as it was in the Barnard matter.

Conclusion

Additional information is needed in order to determine whether the five loans made to the Ed Young in '76 Committee from the South Carolina National Bank were executed in the ordinary course of business.

Contained in the General Counsel's Report in the Matter of James R. Sasser [MUR 216/239 (76) dated June 6, 1977], the Office of General Counsel has drawn up relevant lines of inquiry in order to determine, in part at least, what constitutues "a loan of money by a National or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business..."5/

Some of the considerations set out in the Sasser guidelines are as follows:

A. Did the loan comply with Federal banking laws and regulations?

5/ As evidenced by the relevant case law, and stated in the above-cited General Counsel's Report, "the burden of proof is on the Commission to identify and demonstrate characteristics or facts about particular loans which identify why the transactions seem out of the ordinary."

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B. What were the terms of the loan? The amount of the loan, length of the loan term, the interest rate, the collateral, the consigners or guarantors, must all be considered. An unusally low interest rate may be an indication that the loan was not made in the ordinary course of business. Lack of collateral may be a factor, depending upon the credit-worthiness of the borrower.

C. How was the loan obtained?

D. Who authorized the loan? The relationship between the authorizing officer and the borrower is significant.

E. Was there sufficient evidence to support the credit-worthiness of teh borrower? If the borrower has sufficient assets or earning capacity to justify extension of credit, it would be an indication that the authorizing officer was exercising business judgment as opposed to political judgment in authorizing the loan.

F. Did the bank expect repayment? And was the expectation of repayment reasonable?

G. Has the bank made loans of a similar nature of character, i.e., of comparable purpose, amount and terms?

H. Is there evidence that the bank has made any attempt to obtain repayment of the loans?

At the present time, there is inadequate information to determine whether these loans were made in accordance with applicable banking laws and regulations and in the ordinary course of business. 2 U.S.C. §431(5)(G).

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There are substantial questions with respect to the loans at issue: specifically, the aggregate interest payments from the Committee to the South Carolina National Bank for approximately eighteen months (September 7 through March 31, 1978) total $7,576.08, an amount equal to seven percent (7%) of the total amount of loans received from the South Carolina National Bank. Secondly, even though the Committee has continuously reported the three loans designated as 90 day notes (due to have been repaid on December 7, 1976, December 17, 1976 and January 31, 1977, respectively), the Commission cannot determine whether the terms of these loans have been extended and if the interest rates have been adjusted to reflect this extension of service of bank moneys to the Committee.

At any rate, an estimated 7% per annum interest rate for loans in excess of $100,000, which remains outstanding for this length of time, is cause for preliminary investigation. Additionally, the amounts of the interest payments made by the Committee to date ($4,383.73, $2,213.86, and $988.49) fluctuate considerably, thus indicating an inconsistent interest rate not in the ordinary course of banking business.

Mr. Young is registered as a candidate for the elections of governor for 1978 in South Carolina. He will most likely be incurring new financial responsibilities and therefore will be seeking additional loans and available credit. Mr. Young's ability, as a borrower and guarantor, to repay present loans in excess of $100,000 could well be impaired by his campaign for the 1978 gubernatorial election.

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The foregoing discussion illustrates the need for an investigation in order to clear up the nature of the loan transactions. For this reason, we are recommending the Commission find reason to believe.

Recommendation

1. Find reason to believe that the Ed Young in '76 Committee may have violated 2 U.S.C. §441b(a) and 2 U.S.C. §434(b)(12).

2. Find reason to believe that Edward Young may have violated 2 U.S.C. §441b(a).

3. Find reason to believe that the South Carolina National Bank may have violated 2 U.S.C. §441b(a).

4. Send attached notification letters.

6/9/78

Date

William C. Oldaker
General Counsel

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ATTACHMENT A

SCHEDULE B
REVISED
January, 1979
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

ITEMIZED EXPENDITURES

(Operating, Transfers Out, Contributions In-Kind, Loans, Loan Repayments and Refunds Made)
Supporting Lines 20a, 21a, and 22a, 22b, and 22c of FEC FORM 3

Page 1 of 1 for Line Number 20a

(Use Separate Schedules for each numbered line)

Name of Candidate or Committee in Full
Ed Young in '76 Committee

Full Name, Mailing Address and ZIP Code	Particulars of Expenditure	Date (month, day, year)	Amount of each expenditure this period
South Carolina National Bank P. O. Box 551 Florence, S. C. 29502	Loan Interest Expenditure for: ☐ Primary ☐ General ☐ Other	2/9/70	988.49
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure Expenditure for: ☐ Primary ☐ General ☐ Other	Date (month, day, year)	Amount of each expenditure this period
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure Expenditure for: ☐ Primary ☐ General ☐ Other	Date (month, day, year)	Amount of each expenditure this period
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure Expenditure for: ☐ Primary ☐ General ☐ Other	Date (month, day, year)	Amount of each expenditure this period
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure Expenditure for: ☐ Primary ☐ General ☐ Other	Date (month, day, year)	Amount of each expenditure this period
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure Expenditure for: ☐ Primary ☐ General ☐ Other	Date (month, day, year)	Amount of each expenditure this period
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure Expenditure for: ☐ Primary ☐ General ☐ Other	Date (month, day, year)	Amount of each expenditure this period
Full Name, Mailing Address and ZIP Code	Particulars of Expenditure Expenditure for:	Date (month, day, year)	Amount of each expenditure this period

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	Initials	Date
Prepared by		
Approved by		

ATTACHMENT B

Ed Young in '76 Committee
Jim Apple, Treasurer
P.O. Box 4900, Florence, South Carolina

DATE OF REPORT	APPROXIMATE COST OF 1976 CAMPAIGN	TOTAL EXPENDITURES AGGREGATE YEAR TO DATE
Jan 31 YE Report (1976)		2 85614.65
Jan 31 YE Report (1977)		1 6712.18
April 10 Q Report (1978)		111 6.60
April 10 Q Report (1978)		CASH ON HAND 1003.89
	GRAND TOTAL	304 447.32

	Initials	Date
Prepared by		
Approved by		

ATTACHMENT C

Ed Young in '76 Committee
Jim Apple, Treasurer
P.O. Box 4900, Florence, South Carolina

DATE OF LOAN ISSUANCE	LOANS FROM:	AMOUNT OF LOAN NET OF INTEREST	PAYMENT TO DATE
9/7/76	SOUTH CAROLINA NATIONAL BANK (SCNB)	9809.70	.00
9/17/76	SCNB	4915.81	.00
10/1/76	SCNB	19009.58	.00
10/19/76	SCNB	25468.72	.00
11/2/76	SCNB	46720.93	.00
3/1/77	SCNB	4075.26	.00
	GRAND TOTAL	110000.00	
		INTEREST PAYMENTS	
4/1/77		4383.73	
9/26/77		2213.86	
2/9/78		988.49	
	TOTAL	7586.08	

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ATTACHMENT D

Schedule A
July 1976
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Itemized Receipts, Contributions, Ticket Purchases, Loans, Rebates, and Transfers for Line Numbers 15, 16, 17 and/or 18 of FEC Form 3

(see instructions on back)

Page 1 of 1 for
LINE NUMBER 16a
(Use separate schedule(s) for each numbered line)

Name of Candidate or Committee in full

Ed Young In '76 Committee

Full Name, mailing address and ZIP code	Occupation / Principal place of business	Date (month, day, year)	Amount of each receipt this period
South Carolina National Bank P. O. Box 551 Florence, South Carolina 29501	90 day notes - * Edward Lum Young Candidate, Guarantor	9/7/76 9/17/76	$509.70 4915.81
	Check if Contributor is self-employed Aggregate Year-to-date ▶ $		
Full Name, mailing address and ZIP code	Occupation / Principal place of business	Date (month, day, year)	Amount of each receipt this period
	Check if Contributor is self-employed Aggregate Year-to-date ▶ $		
Full Name, mailing address and ZIP code	Occupation / Principal place of business	Date (month, day, year)	Amount of each receipt this period
	Check if Contributor is self-employed Aggregate Year-to-date ▶ $		
Full Name, mailing address and ZIP code	Occupation / Principal place of business	Date (month, day, year)	Amount of each receipt this period
	Check if Contributor is self-employed Aggregate Year-to-date ▶ $		
Full Name, mailing address and ZIP code	Occupation / Principal place of business	Date (month, day, year)	Amount of each receipt this period
	Check if Contributor is self-employed Aggregate Year-to-date ▶ $		
Full Name, mailing address and ZIP code	Occupation / Principal place of business	Date (month, day, year)	Amount of each receipt this period
	Check if Contributor is self-employed Aggregate Year-to-date ▶ $		

Subtotal of receipts this page (optional) ▶ $

Total this period (last page this line number only) ▶ $14,725.51

Page

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ATTACHMENT D1

Schedule C
July 1976
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Debts and Obligations for Line Numbers 26 and/or 27 of FEC Form 3

(see instructions on back)

Page 1 of ___ for
LINE NUMBER 27
(Use separate schedule(s) for each numbered line)

Name of Candidate or Committee in full: Ed Young In '76 Committee		Amount of Original Debt, Contract, Agreement, or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	$	$	$
Southern Bell Telephone Co. P.O. Box 752 417 Zeiger Building Columbia, S. C. 29202	10/23/76	1,998.97		1,998.97
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	$	$	$
South Carolina Tax Commission P.O. Box 125 Columbia, S. C. 29214	10/31/76	425.10		425.10
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	$	$	$
Tattile Printing Co., Inc. P. O. Box 190 Florence, S. C. 29501	10/1/76	1,120.01		1,120.01
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	$	$	$
Pilloy Office Equipment Co. P.O. Box 1204 Florence, S. C. 29501	10/1/76 10/1/76	647.16 261.04		647.16 261.04
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	$	$	$
Little Development Group 1115 Eighth Avenue, South Nashville, Tennessee 37203	9/23/76	6,066.00		6,066.00
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	$	$	$
Neiman, Taylor & Gregory P.O. Box 2824 Columbia, S. C. 29250	9/23/76	28,948.99		28,948.99
Full Name, mailing address and ZIP code, and nature of obligation *	Date (month, day, year)	$	$	$
South Carolina National Bank P. O. Box 551 Florence, S. C. 29501 Guarantor:	10/1/76	Int. of loan 28,175.00 guaranteed	90 day note	28,000.00
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	$	$	$
Edward Lunn Young Rt 5. Timmonsville Highway Florence, S.C. 29501 (Businessman & Farmer)				
Subtotals this period this page (optional) ▶		$	$	$
Total this period (last page this line number only) ▶		$58,361.95	$	$58,096.43

Carry outstanding balance only, to appropriate line of summary.

Page

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ATTACHMENT E

Schedule C
July 1976
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Debts and Obligations for Line Numbers 26 and/or 27 of FEC Form 3

(see instructions on back)

Page 1 of 1 for
LINE NUMBER 27
(Use separate schedule(s) for each numbered line)

Name of Candidate or Committee in full: Ed Young in '76	Date (month, day, year)	Amount of Original Debt, Contract, Agreement, or Promise	Cumulative Payment To Date	Outstanding Balance, close of This Period
Full Name, mailing address and ZIP code, and nature of obligation		$Loans net of Int.		$
S. C. National Bank	9/7/76	9,809.70	0	9,809.70
P. O. Box 551	9/17/76	4,915.81	0	4,915.81
Florence, S. C. 29502	10/1/76	19,009.58	0	19,009.58
Full Name, mailing address and ZIP code, and nature of obligation		$	$	$
S. C. National Bank	10/19/76	25,468.72	0	25,468.72
P. O. Box 551	11/2/76	46,720.93	0	46,720.93
Florence, S. C. 29502	3/1/77	4,075.26	0	4,075.26
Full Name, mailing address and ZIP code, and nature of obligation		$	$	$
John F. Young	9/21/77	1,000.00	0	1,000.00
Rt. 5, Box 427				
Florence, S. C. 29502				
Full Name, mailing address and ZIP code, and nature of obligation		$	$	$
William B. Young	9/21/77	500.00	0	500.00
P. O. Box 187				
Athens, Alabama 35611				
Full Name, mailing address and ZIP code, and nature of obligation		$	$	$
Full Name, mailing address and ZIP code, and nature of obligation		$	$	$
Full Name, mailing address and ZIP code, and nature of obligation		$	$	$
Full Name, mailing address and ZIP code, and nature of obligation		$	$	$
Subtotals this period this page (optional) ▶		$ 111,500.00	$	$ 111,500.00
Total this period (last page this line number only) ▶		$ 111,500.00	$	$ 111,500.00
Carry outstanding balance only, to appropriate line of summary.				111,500.00

Page

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ATTACHMENT E1

SCHEDULE C
REVISED
January, 1978
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

DEBTS AND OBLIGATIONS

Supporting Line Numbers 12 and 13 of FEC FORM 3

(Indicate Primary or General Election for each Entry)

Page 1 of 2 for Line Number 13

(Use Separate Schedules for each numbered line)

Name of Candidate and Committee in Full: Ed Young in '76 Committee

Full Name, Mailing Address and ZIP Code of Debtor or Creditor	Date (month, day, year)	Amount of Original Debt, Contract, Agreement or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
S. C. National Bank P. O. Box 551 Florence, S. C. 29502	9/7/76	9,809.70	0	9,809.70
	9/17/76	4,915.81	0	4,915.81
☐ Primary ☒ General ☐ Other	10/1/76	$ 19,009.58	$ 0	$ 19,009.58

NATURE OF OBLIGATION (Details of Debt): Campaign loans

Full Name, Mailing Address and ZIP Code of Debtor or Creditor	Date (month, day, year)	Amount of Original Debt, Contract, Agreement or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
S. C. National Bank P. O. Box 551 Florence, S. C. 29502	10/19/76	25,468.72	0	25,468.72
	11/2/76	46,720.43	0	46,720.93
☐ Primary ☒ General ☐ Other	3/1/77	$ 4,075.26	$ 0	$ 4,075.26

NATURE OF OBLIGATION (Details of Debt): Loan

Full Name, Mailing Address and ZIP Code of Debtor or Creditor	Date (month, day, year)	Amount of Original Debt, Contract, Agreement or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
John P. Young Rt. 5, Box 427 Florence, S. C. 29502	9/21/77	1,000.00	0	$1,000.00
☐ Primary ☒ General ☐ Other		$	$	$

NATURE OF OBLIGATION (Details of Debt): Loan

7801132558

ATTACHMENT F

Ed Young in '76 Committee
Jim Apple, Treasurer
P.O. Box 4900, Florence, South Carolina

DATE OF LOAN ISSUANCE	AMOUNT OF LOAN	DATE OF LOAN DISCLOSURE BY THE COMMITTEE
9/7/76	$9809.70	10/12/76
9/17/76	4915.81	10/12/76
10/1/76	19275.00	10/21/76
10/19/76	25468.72	12/6/76
11/2/76	46720.93	12/6/76
3/31/77	4075.26	4/6/77

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

June , 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward Lunn Young
P.O. Box 4900
1413 West Evans Street
Florence, South Carolina 29501

Re: MUR 516 (78)

Dear Mr. Young:

As a result of a preliminary investigation conducted in the normal course of carrying out its supervisory responsibilities, the Commission has determined it has reason to believe that you have violated 2 U.S.C. §441b(a). This determination is based on five loans made from the South Carolina National Bank and guaranteed by you to the Ed Young in '76 Committee (the Committee).

A review of your Committee's reports indicated that perhaps the bank loans in question were not extended to your Committee under normal banking procedures. The Federal Election Campaign Act of 1971, as amended (the Act), states that a loan by a National bank in connection with any federal election constitutes an illegal contribution if that loan was not made in the ordinary course of banking business [see 2 U.S.C. §§431 e(5)(G) and 441b(a)].

When making a determination that there is reason to believe that a violation has occurred, the Commission is required to make an investigation and to afford you a reasonable opportunity to demonstrate that no action should be taken against you. 2 U.S.C. §437g(a). During the course of the investigation you will have the opportunity to submit any evidence which you deem relevant to the Commission's investigation.

7804072850

A copy of the Act has been enclosed for your convenience. This letter of notification shall remain confidential in accordance with 2 U.S.C. §437 g(a)(3) unless you state to the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ellen Hughes (telephone no. 202/523-4026), the staff member assigned to this matter.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

June , 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

R.B. Dean, Jr.
Senior Vice-President
South Carolina National Bank
P.O. Box 551
Florence, South Carolina 29501

Re: MUR 516 (78)

Dear Mr. Dean:

As a result of a preliminary investigation conducted in the normal course of carrying out its supervisory responsibilities, the Commission has determined it has reason to believe that you have violated 2 U.S.C. §441b(a). This determination is based on five loans made from the South Carolina National Bank to the Ed Young in '76 Committee (the Committee).

A review of the Committee's reports indicated that perhaps the bank loans in question were not extended to the Committee under normal banking procedures. The Federal Election Campaign Act of 1971, as amended (the Act) states that a loan by a National bank in connection with any federal election constitutes an illegal contribution if that loan was not made in the ordinary course of banking business [see 2 U.S.C. §431 e(5)(G) and 2 U.S.C. §441b(a)].

When making a determination that there is reason to believe that a violation has occurred, the Commission is required to make an investigation and to afford you a reaonable opportunity to demonstrate that no action should be taken against you. 2 U.S.C. §437g(a). During the course of the investigation, you will have the opportunity to submit any evidence which you deem relevant to the Commission's investigation.

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A copy of the Act has been enclosed for your convenience. This letter of notification shall remain confidential in accordance with 2 U.S.C. §437g (a)(3) unless you state to the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ellen Hughes (telephone no. 202/523-4026), the staff member assigned to this matter.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

June , 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jim Apple, Treasurer
Ed Young in '76 Committee
P.O. Box 4900
Florence, South Carolina 29502

Re: MUR 516 (78)

Dear Mr. Apple:

As a result of a preliminary investigation conducted in the normal course of carrying out its supervisory responsibilities, the Commission has determined it has reason to believe that you have violated 2 U.S.C. §441b(a) and 2 U.S.C. §434(b)(12). This determination is based on five loans made from the South Carolina National Bank to the Ed Young in '76 Committee (the Committee).

A review of the Committee's reports indicated that perhaps the bank loans in question were not extended to the Committee under normal banking procedures. The Federal Election Campaign Act of 1971, as amended (the Act), states that a loan by a National bank in connection with any federal election constitutes an illegal contribution if that loan was not made in the ordinary course of banking business [see 2 U.S.C. §§431e(5)(G) and 441b(a)].

Additionally, the Committee has failed to disclose the nature of two loans from the South Carolina National Bank on October 19 and November 2, 1976 in the amounts of $25,468.72 and $46,720.93, respectively. There has been no explanation by the Committee as to the nature of these loans and under what conditions these debts are to be extinguished. 2 U.S.C. §434(b)(12).

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When making a determination that there is reason to believe that a violation has occurred, the Commission is required to make an investigation and to afford you a reasonable opportunity to demonstrate that no action should be taken against you. 2 U.S.C. §437g(a). During the course of the investigation you will have the opportunity to submit any evidence which you deem relevant to the Commission's investigation.

A copy of the Act has been enclosed for your convenience. This letter of notification shall remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you state to the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ellen Hughes (telephone no. 202/523-4026), the staff member assigned to this matter.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Ed Young,	)	MUR 516 (78)
Ed Young in '76 Committee, and	)	
South Carolina National Bank	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on March 23, 1978, at an Executive Session of the Federal Election Commission at which a quorum was present, the Commission determined by a vote of 5-1 to defer action in the above-captioned matter until after the April 10, 1978, date for filing of reports by candidates and committees.

Voting for this determination were Commissioners Aikens, Springer, Staebler, Thomson, and Tiernan. Commissioner Harris cast the dissenting vote.

Date: March 24, 1978

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

March 9, 1978

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

SUBJECT: MUR 516 (78) - First General Counsel's Report undated
Received in the Commission Secretary's Office 3-8-78, 10:57

The above-mentioned document was circulated to the Commissioners at 4:00 p.m., March 8, 1978, on a 24 hour no-objection basis.

Commissioners Aikens and Staebler have submitted objections.

At the request of Commissioner Aikens, MUR 516 (78) has been placed on the Executive Session Agenda for March 23, 1978.

7804072857

March 8, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 566

Please have the attached 7 day report on MUR 516 distributed to the Commission on a 24 hour no-objection basis.

Thank you.

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FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION _____

MUR # 516
DATE COMPLAINT RECEIVED
BY OGC _____

STAFF MEMBER HUGHES

SOURCE: INTERNALLY GENERATED(Office of General Counsel)

RESPONDENT'S NAME: ED YOUNG, ED YOUNG IN '76 COMMITTEE, AND SOUTH CAROLINA NATIONAL BANK

RELEVANT STATUTE: 2 U.S.C. §441b(a)
2 U.S.C. §434(b)(12)

INTERNAL REPORTS CHECKED: ED YOUNG 1976 REPORTS
ED YOUNG IN '76 COMMITTEE REPORTS(1976 and 1977)

FEDERAL AGENCIES CHECKED: NONE

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BACKGROUND

During 1977, the staff of the Office of General Counsel reviewed the reports of all the House and Senate candidates to determine the nature and extent of the reporting of loans and to determine whether additional regulations and reporting forms might be necessary. [see Attachment D]

SUMMARY OF ALLEGATIONS

The Ed Young in '76 Committee (the Committee) accepted loans from the South Carolina National Bank and has not adequately reported the nature of these loans; additionally, since the loans appear to fall outside the scope of ordinary banking practices, the guarantor, Edward Young and the South Carolina National Bank may be involved in the transactions of contributions in violation of 2 U.S.C. §441b(a).

PRELIMINARY LEGAL ANALYSIS

Edward Lunn Young was an elected Congressman from the sixth district of South Carolina in 1972. Mr. Young was a congressional candidate in the general elections of 1974 and 1976, and was defeated in both elections. Mr. Young incurred debts and obligations which are reported by the Committee. The approximate cost of the 1976 campaign was $410,000 (see Attachment A).

Various loans were received by the Committee from the South Carolina National Bank between September 7, 1976 and November 2, 1976, which, in aggregate, amounted to $105,924.74 (see Attachment B). This is approximately one-quarter of the total cost of Mr. Young's 1976 campaign.

On October 27, 1976, the Commission sent a letter requesting additional information pertaining to the October 10 Quarterly Report which failed to provide the endorsers or guarantors of loans from the South Carolina National Bank during the reporting period. The Committee's failure to adequately report the nature of the loans as set forth in 2 U.S.C. §434(b)(12) constitutes a violation of that section.

On November 11, 1976, the Office of the Clerk, U.S. House of Representatives, received from the Committee an amended tenth day report preceding the November 2, 1976 general election, and an amended October 10 Quarterly Report. These amended reports disclosed the guarantor as candidate Edward Lunn Young and the nature of the loans received from the South Carolina National Bank on September 7, September 17, and October 1, 1976, in the

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amounts of $9,809.70, $4,915.81 and $19,009.58, respectively, as 90 day notes (see Attachment C). There has been no notice of extension regarding the payments of such loans.

Two interest payments have been made to the South Carolina National Bank from the Committee: (1) on April 1, 1977, in the amount of $4,383.73 and ; (2) on September 26, 1977, in the amount of $2,213.86. However, no actual repayment of these loans has occurred to the present time.

The loans received by the Committee may not be within the meaning of 2 U.S.C. §431e(5)(g), which states that a contribution "does not include a loan of money by a national bank made in accordance with applicable banking laws and regulations and in the ordinary course of business...". The three loans were due to be paid by the following dates: December 7, 1976; December 17, 1976; and January 31, 1977. There is no evidence that Mr. Young is judgement proof; rather he appears to be a reputable businessman and farmer. Since therefore the bank has not sought repayment of the loans for so long a period since their due date and since Mr. Young is apparently able to make good on the loans, the bank's policy with respect to the loans to Mr. Young would seem to be not in the "ordinary course of business." These loans might therefore not fall within the protected ambit afforded by 2 U.S.C. §431e(5)(g), but rather may constitute a contribution as described in 2 U.S.C. §431(e)(1), thus being in violation of 2 U.S.C. §441b(a).

RECOMMENDATION

It is recommended that the Commission find reason to believe that the Committee may have violated 2 U.S.C. §441b(a)

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and 2 U.S.C. §434(b)(12), and that Edward Lunn Young may have violated 2 U.S.C. §441b(a). It is also recommended that the Commission find reason to believe that the South Carolina National Bank may have violated 2 U.S.C. §441b(a). Send attached notification letters.

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Edward Lunn Young
P.O. Box 4900
1413 West Evans Street
Florence, South Carolina 29501

Re: MUR 516

Dear Mr. Young:

This is to notify you that, on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, the Commission has determined it has reason to believe that you may have violated 2 U.S.C. §441b(a). This determination is based on five loans made from the South Carolina National Bank to the Ed Young in '76 Committee (the Committee) and you, as guarantor of three of these loans.

The loans received by the Ed Young in '76 Committee (the Committee) and you, as guarantor, may not be within the meaning of 2 U.S.C. §431e(5)(G) which states that a contribution "does not include a loan of money by a National or State Bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business..."

Specifically, three of these loans received from the South Carolina National Bank on September 7, September 17 and October 1, 1976, in the amounts of $9,809.70, $4,915.81 and $19,009.58, respectively, are reported as 90 day notes. There has been no notice of extension regarding the payments of such loans.

Therefore, since the South Carolina National Bank has not sought repayment of the loans for so long a period, the bank's policy with respect to the loans to the Committee and you, as guarantor, would seem to be not in the "ordinary course of business." These loans might therefore not fall

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within the protected ambit afforded by 2 U.S.C. §431(e)(5)(G), but rather may constitute a contribution, as described in 2 U.S.C. §431(e)(1), thus being a violation of 2 U.S.C. §441b.

Upon making a determination that there is reason to believe that a violation has occurred, the Commission is required to make an investigation and to afford you a reasonable opportunity to demonstrate that no action should be taken against you. 2 U.S.C. §437g(a). Accordingly, we would appreciate your submission of any factual or legal materials which you deem relevant to the Commission's investigation of this matter. A copy of the Federal Election Campaign Act of 1971, as amended, has been enclosed at your convenience.

This letter of notification shall remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you state to the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ellen Hughes (telephone no. 202/523-4026), the staff member assigned to this matter.

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

R. B. Dean, Jr.
Senior Vice-President
South Carolina National Bank
P.O. Box 551
Florence, South Carolina 29501

Re: MUR 516

Dear Mr. Dean:

This is to notify you that, on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, the Commission has determined it has reason to believe that you have violated 2 U.S.C. §441b(a). This determination is based upon five loans made by the South Carolina National Bank to the Ed Young in '76 Committee (the Committee).

The loans received by the Committee may not be within the meaning of 2 U.S.C. §431e(5)(G) which states that a contribution "does not include a loan of money by a national or state bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business...."

However, these loans may be considered contributions as defined in 2 U.S.C. §431(e)(1) because they may not have been made in the normal course of business. Specifically, three of these loans received from the South Carolina National Bank on September 7, September 17 and October 1, 1976, in the amounts of $9,809.70, $4,915.81 and $19,009.58, respectively, are reported as 90 day notes and have not been repaid as of this date. There has been no notice of extension regarding the payments of such loans.

Additionally, the Committee received two other loans from the South Carolina National Bank on October 19 and November 2, 1976, in the amounts of $25,468.72 and $46,720.93,

7804002865

respectively. These loans have not been repaid nor has there been any explanation by the Committee as to the nature of these loans and under what conditions these debts are to be extinguished. 2 U.S.C. §434(b)(12). In the Commission's view, the South Carolina National Bank may have made unlawful contributions to the Committee as set forth in 2 U.S.C. §441b(a).

Upon making a determination that there is reason to believe that a violation has occurred, the Commission is required to make an investigation and to afford you a reasonable opportunity to demonstrate that no action should be taken against you. 2 U.S.C. §437g(a). Accordingly, we would appreciate your submission of any factual or legal materials which you deem relevant to the Commission's investigation of this matter. A copy of the Federal Election Campaign Act of 1971, as amended, has been enclosed at your convenience.

This letter of notification shall remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you state to the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Ellen Hughes (telephone no. 202/523-4026), the staff member assigned to this matter.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jim Apple, Treasurer
Ed Young in '76 Committee
P.O. Box 4900
Florence, South Carolina 29502

Re: MUR 516

Dear Mr. Apple:

This is to notify you that, on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, the Commission has determined it has reason to believe that you have violated 2 U.S.C. §441b(a) and 2 U.S.C. §434(b)(12). This determination is based upon five loans made by the South Carolina National Bank to the Ed Young in '76 Committee (the Committee).

The loans received by the Committee may not be within the meaning of 2 U.S.C. §431e(5)(G) which states that a contribution "does not include a loan of money by a National or State Bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business..."

Specifically, three of these loans disclosed the nature of the loans received from the South Carolina National Bank on September 7, September 17, and October 1, 1976, in the amounts of $9,809.70, $4,915.81 and $19,009.58, respectively, as 90 day notes. There has been no notice of extension regarding the payments of such loans. Moreover, there has been no payment of any of these loans since they were granted by the South Carolina National Bank beginning September 7, 1976.

Therefore, these loans may be considered contributions as defined in 2 U.S.C. §431(e)(1) because they may not have been made in the normal course of business. In the Commission's view, the Committee may have knowingly accepted these

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loans which appear, in fact, to be unlawful contributions. 2 U.S.C. §441b(a).

Additionally, the Committee has failed to disclose the nature of two loans from the South Carolina National Bank on October 19 and November 2, 1976 in the amounts of $25,468.72 and $46,720.93, respectively. There has been no explanation by the Committee as to the nature of these loans and under what conditions these debts are to be extinguished. 2 U.S.C. §434(b)(12).

Upon making a determination that there is reason to believe that a violation has occurred, the Commission is required to make an investigation and to afford you a reasonable opportunity to demonstrate that no action should be taken against you. 2 U.S.C. §437g(a). Accordingly, we would appreciate your submission of any factual or legal materials which you deem relevant to the Commission's investigation of this matter. A copy of the Federal Election Campaign Act of 1971, as amended, has been enclosed at your convenience.

This letter of notification shall remain confidential in accordance with 2 U.S.C. §437g(a)(3) unless you state to the Commission in writing that you wish the investigation to be made public. If you have any questions, please contact Ms. Ellen Hughes (telephone No. 202/523-4026), the staff member assigned to this matter.

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

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ATTACHMENT A

	Initials	Date
Prepared by		
Approved by		

ED YOUNG IN '76 COMMITTEE

JIM APPLE, TREASURER

P.O. BOX 4900, FLORENCE, SOUTH CAROLINA

DATE OF REPORT	APPROXIMATE COST OF 1976 CAMPAIGN	TOTAL EXPEND. AGGREGATE YEAR TO DATE
Jan. 31 Year-End 1977		285614.65
Oct. 10 Quarterly 1977		16624.10
	Outstanding debts and obligations	105924.74
	GRAND TOTAL	408163.49

7804072869

ATTACHMENT B

	Initials	Date
Prepared by		
Approved by		

ED YOUNG IN '76 COMMITTEE
JIM APPLE, TREASURER
P.O. BOX 4900, FLORENCE, SOUTH CAROLINA

DATE	LOANS FROM:	AMOUNT OF LOAN NET OF INTEREST	PAYMENT TO DATE
9/7/76	South Carolina National Bank	9809.70	.00
9/17/76	South Carolina National Bank	4915.81	.00
10/1/76	South Carolina National Bank	19009.58	.00
10/19/76	South Carolina National Bank	25468.72	.00
11/2/76	South Carolina National Bank	46720.93	.00
	GRAND TOTAL	105924.74	

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ATTACHMENT C

Schedule C
July 1976
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Debts and Obligations for Line Numbers 26 and/or 27 of FEC Form 3

(see instructions on back)

Page 2 of 2 for
LINE NUMBER 27
(Use separate schedule(s) for each numbered line)

Name of Candidate or Committee in full: Ed Young in '76 Committee		Amount of Original Debt, Contract, Agreement, or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
Full name, mailing address and ZIP code, and nature of obligation Civic Development Group 7257 Creekside Drive Austin, Texas 78752	Date (month, day, year) 9/25/76	$ 5,200.00	$	$ 5,200.00
Full name, mailing address and ZIP code, and nature of obligation Newman, Taylor & Gregory P. O. Box 5506 Columbia, S. C. 29250 Advertising	Date (month, day, year) 9/30/76	$ [illegible]	$	$ [illegible]
Full name, mailing address and ZIP code, and nature of obligation Pete Village 2040 West Evans Street Florence, S. C. 29501	Date (month, day, year) [illegible]	$ 10.29	$	$ 10.29
Full name, mailing address and ZIP code, and nature of obligation Internal Revenue Service [illegible] [illegible], Georgia [illegible]	Date (month, day, year) [illegible]/76	$ [illegible]	$	$ [illegible]
Full name, mailing address and ZIP code, and nature of obligation [illegible]	Date (month, day, year) [illegible]	$ 425.11	$	$ 425.11
Full name, mailing address and ZIP code, and nature of obligation [illegible]	Date (month, day, year) [illegible]	$ [illegible]	$	$ [illegible]
Full name, mailing address and ZIP code, and nature of obligation Principal place of business [illegible] National Bank P. O. Box [illegible] Florence, S. C. 29501	Date (month, day, year) [illegible]	Business man & former friend of Ken Young, Candidate (Guarantor) Reference S.C. [illegible] Amt. of Loan Guaranteed		5,[illegible]
Full name, mailing address and ZIP code, and nature of obligation Principal place of business [illegible] National Bank P. O. Box [illegible] Florence, S. C. 29501	Date (month, day, year) [illegible]	Business man & former friend of Edward Lunk Young, Candidate (Guarantor) Amt. of Loan Guaranteed		4,[illegible]
(90 day note)				
(91 day note)				
Subtotals this period this page (list detail) ▶		$	$	$
Total this period (last page this line number only) ▶		$	$	$50,002.61

Date Political Committee Officer signature, if applicable, line 27 summary

Page

ATTACHMENT C1

Schedule C
July 1976
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Debts and Obligations for Line Numbers 26 and/or 27 of FEC Form 3

(see instructions on back)

Page ___ of ___ for
LINE NUMBER 27
(Use separate schedule(s) for each numbered line)

Name of Candidate or Committee in full: Ed Young In '76 Committee

Full name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	Amount of Original Debt, Contract, Agreement, or Promise	Cumulative Payment To Date	Outstanding Balance at Close of This Period
Southern Bell Telephone Co. P.O. Box 752 [illegible] Building Columbia, S. C. 29202	10/23/76	$ 1,998.97	$	$ 1,998.97
South Carolina Tax Commission P.O. Box 125 Columbia, S. C. 29214	10/31/76	425.10		425.10
Cattlile Printshops, Inc. P. O. Box 190 Florence, S. C. 29501	10/1/76	1,130.91		1,130.91
[illegible] Equipment Co. P.O. Box [illegible] Florence, S. C. 29501	[illegible]	[illegible]		[illegible]
[illegible] Drug Store [illegible] Eleventh Avenue, Dept. Huntingdon, Pennsylvania [illegible]	[illegible]	4,066.00		4,066.00
[illegible] P.O. Box [illegible] Columbia, S. C. 29202	[illegible]	10,000.00		10,000.00
South Carolina National Bank P. O. Box [illegible] Florence, S. C. 29501	[illegible]	$ Int. of loan 10,175.00 guaranteed	$ 90 day note	$ 10,000.00
Guarantor: Edward Lunn Young Rt 5. Timmonsville Highway Florence, S.C. 29501 (Businessman & Farmer)				
Subtotals this period this page (optional) ▶		$	$	$
Total this period (last page this line number only) ▶		$[illegible]	$	$ 59,096.43

Give outstanding balance only, to appropriate line of summary.

FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 516

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