FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 612

Date Filmed 2/27/79 Camera No. --- 2

Cameraman GPC

FEDERAL ELECTION COMMISSION

Personal/Corporate checks and statements

Personal financial data

Bills of Sale

Loans/promissory notes

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)
___	(5) Internal Documents		

Signed Frances B. Hagar

date January 26, 1979

FEC 9-21-77

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

January 25, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Eugene M. McLain
Gene McLain Real Estate
1402-B Memorial Parkway North
Box 2209
Huntsville, Alabama 35804

Re: MUR 612

Dear Mr. McLain:

On January 24, 1979, the Commission determined that there is no probable cause to believe that you violated 2 U.S.C. § 441b(a) by accepting a loan from Woody Anderson Ford. Accordingly, we are closing the file in this matter.

If you have any questions regarding this matter, please contact Frances E. Hagan at (202) 523-4006.

Thank you for your cooperation.

Sincerely,

William C. Oldaker
General Counsel

cc: Timothy Sullivan
Cabell, Howard, Knabe
and Cobb, P.A.

7904010028

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

January 25, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles W. Anderson
Woody Anderson Ford
516 Washington Street, N.W.
Huntsville, Alabama 35801

Re: MUR 612

Dear Mr. Anderson:

On January 24, 1979, the Commission determined that there is no probable cause to believe that Woody Anderson Ford violated 2 U.S.C. § 441b(a) by making a loan to a candidate for Federal office. Accordingly, we are closing the file in this matter.

If you have any questions regarding this matter, please contact Frances B. Hagan at (202) 523-4006.

Thank you for your cooperation.

Sincerely,

William C. Oldaker
General Counsel

cc: Timothy Sullivan
Cabell, Howard, Knabe
and Cobb, P.A.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 612
Eugene McLain and	)	
Woody Anderson Ford	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on January 24, 1979, the Commission determined by a vote of 4-0 to adopt the following recommendations, as set forth in the General Counsel's Report dated January 19, 1979, regarding the above-captioned matter:

1. Find no probable cause to believe that Eugene McLain violated 2 U.S.C. §441b(a).

2. Find no probable cause to believe that Woody Anderson Ford violated 2 U.S.C. §441b(a).

3. Send the letters attached to the above-named report.

4. Close the file.

Voting for this determination were Commissioners Springer, Tiernan, McGarry, and Thomson.

Attest:

1/24/79 Marjorie W. Emmons

Date Marjorie W. Emmons, Secretary to the Commission

Received in Office of Commission Secretary: 1-19-79, 11:48
Circulated on 48 hour vote basis: 1-19-78, 3:30

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January 19, 1979

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 612

Please have the attached General Counsel's Report on MUR 612 distributed to the Commission on a 48 hour tally basis.

Thank you.

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RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

BEFORE THE FEDERAL ELECTION COMMISSION

79 JAN 19 A11: 48

In the Matter of	)	
	)	
Eugene McLain and	)	
Woody Anderson Ford	)	MUR 612

GENERAL COUNSEL'S REPORT

Summary

On August 16, 1978, the Commission found reasonable cause to believe that Mr. Eugene McLain ("the Candidate") and Woody Anderson Ford, a corporation, violated 2 U.S.C. § 441b(a) which prohibits contributing or accepting corporate monies in connection with a Federal election.

As previously reported, the violation occurred when Mr. McLain received a loan of $30,000 from Woody Anderson Ford two days after he began reporting with the Federal Election Commission as a candidate for Federal office. The loan was secured by a pledge of anticipated proceeds from a pending sale of real estate owned jointly by the Candidate and Mr. Charles W. Anderson, President of Woody Anderson Ford. The loan was repaid four months later with Mr. McLain's portion of proceeds from the land sale.

During the randomly-selected audit of the Candidate's campaign, auditors requested that Mr. McLain identify and report the source of loans which, along with personal monies, provided funds that he lent to his campaign committee. The Candidate forgave the balance of these loans when the committee was un-

able to raise funds sufficient to repay him.

In his report to the FEC, Mr. McLain listed sources for the loan balance totaling $63,266.21. He included Woody Anderson Ford as the source of $30,000 which had been used by his campaign committee. (Attachment IV).

Mr. McLain had established a pattern of conducting his real estate business by borrowing money from banks, individuals, and corporations, including Mr. Anderson and Woody Anderson Ford. This factor appeared to mitigate the violation; therefore, a civil penalty of $150 was proposed in the Commission's initial conciliation agreements.

Upon receipt of the conciliation agreements, both respondents retained counsel who filed a counterproposal for the Commission's consideration. The counterproposal expands on issues raised on behalf of the respondents and offers additional information regarding this transaction which affects favorably the respondents' position. In this statement, the respondents' attorney asserts that the respondents did not violate 2 U.S.C. § 441b(a) because the loan had no connection with Mr. McLain's political campaign. He states that the loan was a routine business transaction consistent with a prior course of conduct between the parties. Here he notes Mr. McLain's business practices and provides the previously-reviewed evidence of loans between Mr. McLain and Mr. Anderson.

Intent

The attorney's argument states further that there was no intent that proceeds from the loan would be used in the campaign. Each respondent has insisted that the loan was considered personal and no different from previous loans made when Mr. McLain required financing to support his real estate dealings. Mr. Anderson's secretary, who is authorized to sign checks on her employer's personal and corporate accounts, submitted a notarized statement declaring that she considered the transaction in keeping with previous loans between the parties. It was she who chose the corporate checkbook "from habit of writing more checks" on this amount rather than having instructions to do so.

Mr. McLain submits a personal financial statment to illustrate the considerable liabilities incurred through his business. 1/ It reflects his opinion of the loan as personal by labeling it "Notes Payable to Individuals." (Exhibit E and page 4 of Text).

Bank Records

Counsel for the respondents states that proceeds of the loan were not used in Mr. McLain's political campaign. While this is contrary to the Candidate's FEC report of the source of funds, Mr. McLain asserts--and it is evident from his personal bank statement and canceled checks for April 1976--

1/ Mr. McLain's financial statement reveals that he had a personal net worth of approximately $2,000,000. Although most of his assets were not liquid, he would have had no trouble obtaining a $30,000 bank loan if needed.

that the actual payments made to the committee during that month could have been covered by personal funds in the account other than the $30,000 from Woody Anderson Ford.

Our review of the bank records shows that the loan was made on February 11, 1976, but the check was not deposited until April 2, 1976. (Attachment II) On April 7, 1976, Mr. McLain also deposited a check for $29,324.61 representing funds received from the sale of land in Pell City, Alabama. (Attachement III)

During April, Mr. McLain wrote two checks totaling $28,000 from his account to his campaign committee. It is apparent from bank records noted above that these payments could have been covered by funds originating from other than corporate sources. The loan was obtained on February 11 and deposited in early April, while the expenditures were made at the end of April, indicating little connection between the source of funds (notably the corporate loan) and the campaign's financial needs.

Political Differences

The respondent argues cogently that a $30,000 political loan would not have been consistent with Mr. Anderson's political activities. Apparently, the respondents have maintained a personal and business friendship while remaining on opposite sides politically. Mr. Anderson supported Mr. McLain's opponent in the 1970 primary campaign for Alabama State Senate. Mr. Anderson was fundraising chairman for

George Wallace when Mr. McLain opposed him in the 1974 gubernatorial primary. Furthermore, in the 1976 Congressional primary at issue here, Mr. Anderson contributed $1,000 each to Mr. McLain and his opponent, and admittedly voted for Mr. McLain's opponent. (Exhibit C).

Previous MURs cited by Respondents' Counsel

Counsel for the respondents uses two cases previously before the Commission to show that FEC precedent fails to support the Commission's findings in this case. While the cases discuss certain aspects of the issues in question, neither case may be considered a precedent in the matter at hand.

In MUR 149(76), the Commission discussed the possibility that corporate contributions resulted when Ms. Jane Fonda borrowed funds against future earnings from her employers, Twentieth Century Fox Corporation and United Artists Corporation, which were used in connection with the California Senate campaign of her husband, Tom Hayden. In that MUR, the General Counsel reasoned that "without some evidence that the discussions between Ms. Fonda and the corporations leading to the loan involved something more than an advance against earnings which she could have obtained for other purposes, it would seem difficult to proceed on a theory that the loan was, in fact, a corporate contribution." That particular discussion occurred in reports prior to the final General Counsel's Report and the case did not involve a violation of 2 U.S.C. § 441b. That issue was not the basis on which the matter was resolved.

Counsel for the respondents cited MUR 216/239 (76) in support of his argument that the transaction in question was made in the ordinary course of business. That matter discusses certain bank loans made in connection with a Senate campaign. The General Counsel's Report analyzes the loans with questions which relate specifically to banking institutions. Furthermore, the Commission did not necessarily adopt the reasoning of the General Counsel's report; it merely adopted the conclusory recommendations. Therefore, the present rationale does not rely on the previous reasoning.

In conclusion, the information provided in the attached text, and the evidence and statements submitted by the respondents relate significantly to the nature of the particular transaction between Mr. McLain and Woody Anderson Ford. It is apparent from the information herein that the evidence supporting the position that the corporate loan was intended by either party to be in connection with the Candidate's campaign is insufficient and is outweighed by evidence characterizing the loan as a transaction independent of political considerations.

Therefore, we are recommending that the Commission reconsider its earlier decisions in this case and find no probable cause to believe that a violation of 2 U.S.C. § 441b(a) occurred.

Recommendation

1. Find no probable cause to believe that Eugene McLain violated 2 U.S.C. § 441b(a).

2. Find no probable cause to believe that Woody Anderson Ford violated 2 U.S.C. § 441b(a).

3. Send the attached letters.

4. Close the file.

1/19/79
Date

William C. Oldaker
General Counsel

Attachments:

Attachment I, Text	10 pages
Exhibit A	2 "
Exhibit B	1 "
Exhibit C	5 "
Exhibit D	1 "
Exhibit E	1 "
Exhibit F	17 "
Attachment II	2 "
Attachment III	2 "
Attachment IV	2 "

2 Letters

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*BRUCE J. DOWNEY III
RICHARD F. ALLEN
HENRY C. BARNETT, JR.
PALMER S. LEHMAN
ROBERT H. HARRIS

*(ADMITTED ALABAMA AND DISTRICT OF COLUMBIA)

Attachment I
Text

September 26, 1978

HAND-DELIVERED

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

Re: MUR 612

Dear Mr. Oldaker:

Eugene M. McLain and Woody Anderson Ford ("Respondents") have asked us to reply to your August 18, 1978 letters enclosing the Federal Election Commission's ("FEC") proposed conciliation agreements which stipulate (1) that each Respondent intentionally violated 2 U.S.C. Section 441b(a) of the Federal Election Campaign Act (the "Act"); and (2) that each will pay a penalty of $150.00 as a result of the alleged violations. According to the respective conciliation agreements, Respondents allegedly violated 2 U.S.C. Section 441b(a) when Woody Anderson Ford loaned $30,000 to Eugene McLain on February 11, 1976, two days after Mr. McLain began reporting receipts and expenditures to the FEC as a candidate for the United States House of Representatives.

During an August 30, 1978 meeting with Mr. Kenneth Gross and Ms. Fran Hagan of the FEC, we articulated numerous reasons why Respondents will neither sign a conciliation agreement nor agree to pay a penalty to the Government no matter how insignificant the sum. The purpose of this letter is to (1) provide written confirmation of Respondents' contentions; (2) introduce new evidence which provides additional support for Respondents' arguments; and (3) request that the FEC rescind its earlier determination and dismiss this matter immediately.

Attachment I, Text

I. Brief Statement of Facts.

On February 9, 1976, Eugene M. McLain, a real estate developer and speculator in Huntsville, Alabama, began reporting receipts and expenditures to the FEC as a candidate for the U.S. House of Representatives. On February 11, 1976, Woody Anderson Ford, an automobile dealership in Huntsville, loaned $30,000 to McLain. The loan, which was memorialized by a note bearing an interest rate of ten percent per annum, was secured against McLain's anticipated proceeds from a pending sale of land owned jointly by McLain and C.W. Anderson, President of Woody Anderson Ford. On June 17, 1976, the day the sale of land was closed, Mr. McLain repaid the loan in full. A 1978 audit by the FEC has resulted in the Commission's determination that Respondents violated 2 U.S.C. Section 441b(a), which reads in pertinent part:

> (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

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II. Respondents Did Not Violate 2 U.S.C. Section 441b(a) Because the Loan Had no Connection with Mr. McLain's Political Campaign.

The Commission staff has expressed its belief that the mere use of any of the $30,000 loan proceeds by Mr. Mclain in his campaign is evidence that the February 11, 1976 loan was a prohibited contribution made by Woody Anderson Ford "in connection with" the election and "knowingly" accepted by Mr. McLain "in connection with" his election. As Respondents shall demonstrate herein, however, the loan was a transaction which was consummated in the ordinary course of business, was similar to prior loans under identical circumstances, and had no connection whatsoever with Mr. McLain's political campaign. Further, the proceeds of the loan were not used in Mr. McLain's political campaign.

A. The Loan was a Routine Business Transaction Consistent with a Prior Course of Conduct Between the Parties.

Mr. McLain and C.W. Anderson, President of Woody Anderson Ford, are joint owners of a large piece of commercial property in Huntsville. As in the February 11, 1976 loan, when portions of the property were about to be sold over the past several years, Mr. McLain would borrow funds from Mr. Anderson secured against the anticipated proceeds of the respective sale. Mr. McLain, whose real estate dealings involve tremendous amounts of commercial paper and financial risk, was then able to use the borrowed funds to meet other business needs. As both Mr. McLain and Mr. Anderson have stated under oath (See Exhibits A and B), the February 11, 1976 loan was solely a business transaction consistent with a well-established course of conduct between Mr. McLain and Mr. Anderson. As evidence of the course of conduct between Messrs. McLain and Anderson, it should be noted that the Commission possesses (1) the note executed on February 11, 1976; (2) a note dated March 31, 1975 evidencing a $30,000 personal loan from Mr. Anderson to Mr. McLain under identical business circumstances; and (3) a note dated October 1, 1975 evidencing a $30,000 loan from

Woody Anderson Ford to Mr. McLain under identical business circumstances. As in the 1976 loan, Mr. McLain repaid each loan, with interest, at the time the respective sale closed.

B. There was No "Intent" by Either Party that the Proceeds of the Loan Would be used in Mr. McLain's Political Campaign.

Both gentlemen treated the transaction as a personal loan: (1) Mr. Anderson has stated under oath that his personal secretary apparently made the decision to disburse the funds out of the Woody Anderson Ford corporate account rather than his personal account, even though similar loans had been made out of both accounts in the past. (Exhibit C.) Further, we have attached as Exhibit D a sworn statement by Mr. Anderson's secretary, Ms. Margaret D. Hightower, which describes the circumstances surrounding the drawing of the disputed note and check and which clearly shows that the decision to use corporate funds rather than personal funds was a ministerial function routinely performed by Ms. Hightower. As Ms. Hightower has stated, she had drawn several similar notes and checks for business transactions between Woody Anderson and Eugene McLain, and in her view this transaction was no different from the others.

(2) Mr. McLain, who constantly seeks financing to support his real estate dealings, generally uses a personal financial statement to secure such financing. We have attached Mr. McLain's personal financial statement as of May 14, 1976. (Exhibit E.) That statement is significant because it lists the disputed $30,000 loan as a note "payable to individuals" rather than to a corporation. This description was not intended to mislead a potential lender;* rather, it simply reflected Mr. McLain's general impression that the loan was from Mr. Anderson personally. The financial statement also makes it clear

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* To a potential lender the amount of the debt was the only important consideration. It did not matter whether the creditor was an individual or a corporation.

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that the $30,000 loan was minor in relation to Mr. McLain's net worth on the date of the loan and when viewed in light of other liabilities outstanding during that period. Finally, the personal financial statement makes it evident that the loan was not an unusual financial transaction for Mr. McLain at the time, but instead was just one of many loans required to operate his real estate business.

Thus, both Respondents viewed the loan as a personal business transaction and neither Respondent viewed the loan as being made "in connection with" Mr. McLain's political campaign.

C. A $30,000 Political Loan Would Not Have Been Consistent with Anderson's Political Activities.

Although Mr. McLain and Mr. Anderson have been personal friends and business associates for several years, they have not been political allies. For example, Mr. Anderson supported Harry Pennington, Mr. McLain's opponent in a 1970 primary campaign for a seat in the Alabama State Senate. More recently, Mr. Anderson was County Coordinator and fundraising chairman for George Wallace when Wallace and McLain vied for the Democratic gubernatorial nomination in 1974. Most importantly, however, in the 1976 primary campaign which is in issue here, Mr. Anderson personally contributed $1,000 to both Mr. McLain and his opponent, Mr. Jyles Machen, and Mr. Anderson voted for Mr. Machen. (Exhibit D.) In summary, a $30,000 loan from Mr. Anderson (or his company) to Mr. McLain's political campaign would have been totally inconsistent with Mr. Anderson's past activities as well as his activities in the 1976 campaign for Congress.

D. The Proceeds of the Loan Were Not Used in Mr. McLain's 1976 Political Campaign.

Since the $30,000 which Mr. McLain had borrowed represented his share of a pending real estate transaction, Mr. McLain treated the borrowed funds as his own and deposited the funds in his business account at the American National Bank of Huntsville on April 2, 1976. We have attached copies of Mr. McLain's bank

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statement for April, 1976, as well as copies of all checks listed in that statement. (Exhibit F.) Although the statement and cancelled checks speak for themselves, their significance may be summarized as follows: During the month of April, 1976, the maximum amount in Mr. McLain's account was $60,369.17. That amount was comprised primarily of the $30,000 obtained from Woody Anderson Ford (deposited on April 2, 1976) and $29,324.61 (deposited on April 7, 1976) representing proceeds from the sale of some land in Pell City, Alabama. At the end of April, 1976, only $391.47 remained in the account. Of the $59,977.70 which Mr. McLain spent from the account, only $28,000 (see Check Nos. 652 and 653) was used for the campaign, which amount was covered by the $29,324.61 sale of land in Pell City. As the cancelled checks indicate, the balance of the funds ($31,977.70) was used for business purposes. Thus, not only was the $30,000 loan meant to be a business transaction, these records clearly establish that the money was used for business purposes.

III. FEC Precedent Does Not Support the Commission's Finding.

Viewed together, the above items serve as conclusive evidence to support Respondents' position that the February 11, 1976 loan had no connection with Mr. McLain's political campaign. In addition, and as demonstrated below, FEC pre[illegible]dent fails to support the Commission's finding that Respondents violated 2 U.S.C. Section 441b(a).

Our research indicates that the Commission has not previously considered a case similar to the instant situation; however, other Commission decisions compel the conclusion that the Commission should rescind its current position and dismiss this matter immediately. On December 17, 1976, in MUR-149(76), the Commission determined that there was probable cause to believe that Ms. Jane Fonda had violated the individual limitations of 2 U.S.C. Section 441a(1)(A) and 2 U.S.C. Section 441a(a)(3) when Ms. Fonda transferred $314,050 to the Hayden for Senate Committee, the Committee which supported her husband's, Tom Hayden, campaign for the U.S. Senate. The transfer, which exceeded by $289,050 the $25,000 contribution ceiling set forth in 2 U.S.C. Section 441(a)(3), was made with funds from two separate accounts: (1) $64,050 from an account in Ms. Fonda's name and (2) $250,000 from

loan proceeds which Ms. Fonda had borrowed from her employers, Twentieth Century Fox Corporation and United Artists Corporation, which loans were secured by Ms. Fonda's "future earnings." The loans were made subsequent to Mr. Hayden's announcement of candidacy in June, 1975.

The Commission instituted conciliation proceedings during which Fonda and Hayden submitted additional factual and legal evidence supporting their arguments that, under the community property laws in California, Hayden had had legal access to or control over his wife's funds and that the money transferred to his committee amounted to personal funds which Hayden could draw upon for his candidacy. Upon re-opening the investigation, the Commission agreed with Respondents and held that there was "no longer reasonable cause to believe that Respondents have violated Section 441a."

More important with regard to the instant situation, however, in reversing its prior determination in MUR-149(76), the Commission also gave careful consideration to whether the loans to Ms. Fonda from her employers were illegal corporate contributions in violation of 2 U.S.C. Section 441b(a). In your June 3, 1977 "Interim Conciliation Report" recommending that the Commission close the file, you stated:

> Implicit in the facts noted above is the possibility that the advances from Twentieth Century Fox and United Artists could be viewed as "made . . . in connection with a federal election." All parties state that the loans were advances against future movies and we have obtained no evidence to refute this. The proximity in time between the loans and the transfers of large sums of money to the Hayden campaign from the New York account, do raise the possibility that not only did Ms. Fonda borrow the money with the intention of putting it into the campaign but that the corporations approved that intention. As noted, however, we have no evidence to support such a connection, and without some evidence that the discussions between Ms. Fonda and the corporations leading to the loan involved something more than an advance against earnings which she could have obtained for other purposes, it would seem difficult to proceed on a theory that the loan was, in fact, a corporate contribution. Id. at 5-6.

The above discussion applies squarely to the facts of the instant case. All parties state that the loan was a mere "advance" against a real estate transaction which was to close in a matter of a few months. And, indeed, in Mr. McLain's case the transaction was consummated as expected and the loan was repaid with interest, just as in similar past transactions. There is no evidence whatsoever to support the Commission's position that the loan was made in connection with a federal election. All of the statements by Respondents show that the loan was made in the ordinary course of business; and, as in MUR-149(76), it would appear that the Commission lacks sufficient evidence to proceed on the theory that the loan was in fact a corporate contribution. Further, whereas in MUR-149 there was no doubt that the disputed funds were used in Mr. Hayden's campaign, in the instant situation the funds were not used in Mr. McLain's campaign. Thus, the FEC has even more reason to dismiss this matter immediately.

One other Commission decision merits discussion. On June 6, 1977, you issued a "General Counsel's Report" in MUR-216/239 (76). That matter involved allegations relating to James Sasser's primary campaign for the U.S. Senate in Tennessee. The Commission alleged, inter alia, that certain bank loans to Sasser's campaign committee were not made in the ordinary course of business as required by 2 U.S.C. Section 431(e)(5)(G), making them illegal corporate contributions under 2 U.S.C. Section 441b.

Based on information provided primarily by Respondent Sasser, and an analysis of relevant case law, approaches taken by other agencies, Federal banking regulations and general corporate law, you concluded that:

> Both by comparison to the general tests of banking and corporate law and by measurement against the standard of FECA . . . the burden of proof seems to lie on the Commission to identify and demonstrate characteristics or facts about particular loans which identify why the transactions seem out of the ordinary. MUR-216/239(76), General Counsel's Report, at 20.

You then proceeded to delineate eight questions which you stated would be relevant to the determination of whether a loan was made in the ordinary course of business.* Id. at 20-24. After analyzing the facts of the Sasser case with those eight questions, you concluded:

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* The eight questions were: (1) Did the loan comply with Federal banking laws and regulations? (2) What were the terms of the loan? (3) How was the loan obtained? Were

> Absent evidence in addition to the existence of such personal relationships and the knowledge that the loans were to finance Mr. Sasser's campaign, it would be difficult to prove that the dominant motive was not an acceptable business one but rather was to aid Mr. Sasser's candidacy. And even if such a conciliation is reached, the cases cited above suggest the reluctance of the courts to set aside as improper a business judgment, even where personal motives intervene, where the business judgment is supportable on independent grounds. Id. at 30-31

Based on your review, you recommended that the Commission determine (1) that there was insufficient evidence to support a finding of reasonable cause to believe that the loans were not in the ordinary course of business; and (2) that Sasser had demonstrated sufficient reason why no action should be taken against him with respect to the failure to correctly report the loans. Id. at 34.

As in the Sasser case, it would be extremely difficult, if not impossible, to prove that the dominant motive in the February 11, 1976 loan was not an acceptable business one but rather to aid Mr. McLain's candidacy. In line with the substance of the eight questions you used to analyze the Sasser case, it is relevant to note that the terms of the disputed loan were reasonable; that the loan was effected in accordance with prior practices under identical circumstances; that the parties to the loan were business associates who had entered into similar agreements several times before; that repayment with interest was expected and was a reasonable expectation in light of past transactions; and that Mr. McLain was worthy of credit. In short, even the line of analysis recommended by your office leads to the conclusion that the disputed loan was solely a business transaction.

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normal channels observed? (4) Who authorized the loan? (5) Was there sufficient evidence to support the credit judgment at the time the loan was made? (6) Did the bank expect repayment? And, was the expectation of repayment reasonable? (7) Does the bank have loans of a similar nature? (8) If more than one bank is involved in the transaction, what is the relationship among the various banks?

Read together, and in light of the additional information provided herein, the Sasser and Fonda decisions compel the conclusion that the Commission lacks the evidence to support a finding of reasonable cause to believe that either Respondent violated 2 U.S.C. Section 441b(a) of the Federal Election Campaign Act. To the contrary, the preponderance of the evidence supports Respondents' contentions that the loan had no connection with Mr. McLain's political campaign. Moreover, the fact that the Commission has proffered conciliation agreements stipulating penalties of $150.00 each implies that the Commission itself is aware of the dearth of evidence to support its findings. In discussions with Commission staff members, we have been advised that the fines were minimal due to "mitigating circumstances." We believe that similar mitigating circumstances played major roles in the Commission's decision to dismiss the charges in MUR-149(76) and MUR-216/239(76), and identical action must be taken here.

Based on the above, it is clear that the disputed loan had no connection with Mr. McLain's political campaign, and neither Respondent can execute a conciliation agreement which becomes a matter of public record and which constitutes an admission that either Respondent violated the law. Obviously, the sum of $150.00 is not the issue which concerns Respondents. As a matter of principle, neither Respondent can agree that a violation of the Act occurred, even if to do so would be less expensive and less burdensome than continuing to maintain their innocence; and it is this fundamental belief that they did nothing wrong -- that the loan was simply a routine business transaction -- that causes Respondents to refuse to sign the proffered agreements.

For the above reasons, Respondents request that the Commission (1) re-open this matter for further consideration and (2) rescind its earlier determination that there was reasonable cause to believe that Respondents violated 2 U.S.C. Section 441b (a) of the Federal Election Campaign Act.

Please direct all correspondence and inquiries relating to this matter to the attention of the undersigned in the Washington office of this firm.

Respectfully submitted,

CAPELL, HOWARD, KNABE & COBBS, P.A.

By Timothy Sullivan
Timothy Sullivan

Counsel for Eugene M. McLain and
Woody Anderson Ford

Exhibits A through F

WOODY ANDERSON FORD
Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

Exhibit A

July 5, 1978

Ms. Fran Hagan
Federal Election Commission
1325 K Street NW
Washington, D. C. 20463

Dear Ms. Hogan:

In reference to your letter of June 28, I would like to state to you that there was no intent on my part to violate any Federal Election laws. As I stated to you over the telephone, from time to time over the last several years I had business dealings with Mr. McLain because he and I are joint owners of a piece of commercial property located in Huntsville, Alabama, on University Drive. I own 75% interest in this property and Mr. McLain owns 25%, which is totally paid for.

Portions of the property have been sold and from time to time I have, as the records will reflect, advanced certain monies to Mr. McLain on the sale of this property while a deal was being closed out. Some of the time there has been a mortgage drawn up to secure these advances and some of the time a note. All of these loans were handled in a business like manner and interest was paid to me at the time of closing of the sale or imediately thereafter.

At the time this loan was made, there was no consideration given to its being a campaign contribution. I sincerely hope that this matter can be resolved without costing me and the tax payers a lot of money. I can truthfully say to you that I instructed Mrs. Hightower, my secretary, to draw up the note and I did not know at the time whether the money was being disbursed out of the company account or out of my personal account.

Yours very truly,

C. W. Anderson
President

FORD

WOODY ANDERSON FORD

Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

State of Alabama
County of Madison

Personally appeared before me, Judy Bice, a Notary Public in and for said county and state, C. W. (Woody) Anderson, who is personally known to me and who swears to the truth of the attached statement and has signed said statement of his own free will, this 5th day of July, 1978.

Judy Bice

Notary Public MY COMMISSION EXPIRES 2-22-82

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EXHIBIT B

GENE McLAIN
BETH H McLAIN
BUDDY CHAPMAN
D. SCOTT McLAIN
J. N MASON

1402-B MEMORIAL PARKWAY NORTH • P O BOX 2209 • HUNTSVILLE, ALABAMA 35804
TELEPHONE 205/533-3414

July 5, 1978

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

Dear Mr. Oldaker: Re: MUR 612

In response to your letter dated June 28, 1978, received in my office on July 5, 1978, and as a supplement to my letter of May 18, 1978, addressed to Ms. Sue Paschen and attached hereto, this is to clarify that the money borrowed was not a political loan and was not designated as such, and, as a matter of fact, politics was not mentioned. The documentation attached to my letter of May 18 to Ms. Paschen is evidence that this loan was consistent with a pattern of borrowing from Woody Anderson and, in this particular case, Woody Anderson Ford, over a period of years, since we have been partners in a particular piece of real estate. In each instance that I have borrowed money from Woody Anderson, we had a sale pending and the loan did not exceed the amount that was forthcoming from the sale.

I have gone over with your staff the current loans I have outstanding with individuals, banks, and corporations, which total several hundred thousand dollars, which illustrates that the amount of money involved in this instance was not a major amount compared to total short-term indebtedness.

I would also point out that interest has been paid in each instance, and that these were arms-length business transactions. I trust the foregoing will satisfactorily explain the circumstances, but, in the event you desire for me to appear in person, I will do so. While this is in the form of a letter, I am going to have it notarized, and I am presenting this under oath.

Sincerely,

Eugene M. McLain

Eugene M. McLain

EMM:cm

cc: Ms. Fran Hagan

STATE OF ALABAMA)
MADISON COUNTY)

Sworn and subscribed before me this 5th day of July, 1978.

Notary Public

EXHIBIT C

WOODY ANDERSON FORD
Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

September 21, 1978

To Whom It May Concern:

On March 26, 1976, I made a $1000.00 contribution to Gene McLain's political campaign from my personal checking account. (Enclosure 1) This was my total involvement with Mr. McLain's campaign. In fact I also made a $1000.00 contribution to Jyles Machen (Enclosure 2), an opponent of Mr. McLain; and my wife and I both voted for Jyles Machen.

Mr. Gene McLain and I have been on opposite ends of the political arena from the time he ran for State Senate some years ago. When Mr. McLain ran for Governor in 1974, I was County Co-ordinator and fund raising Chairman for George Wallace, Mr. McLain's opponent.

I realize we could have settled this matter for a token payment, but I will not plead guilty to something I have not done. I feel very strongly about this. If I had been guilty of the infraction cited in the FEC's conciliation agreement, I would not have hesitated to pay the token fine.

Yours very truly,

Charles W. Anderson

State of Alabama
County of Madison

Before me personally appeared, Charles W. Anderson, who is known to me and who states that the above is a true statement and that he has this September 21, 1978, signed this document of his own free will.

Judy Bice
Notary Public
MY COMMISSION EXPIRES 2-22-82

EXHIBIT D

WOODY ANDERSON FORD
Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

September 21, 1978

To Whom It May Concern:

I, Margaret D. Hightower, am Secretary of Woody Anderson Ford, a corporation. A few days prior to February 11, 1976, Mr. C. W. Anderson instructed me to draw up a note on a particular piece of property jointly owned by he and Gene McLain, and which had been sold. They were waiting to close the deal and receive payment for the property. Mr. Anderson was out of town on the day that I drew up this note and advanced Mr. McLain the $30,000.00 against the future settlement of this sale. I am authorized to sign checks on both Mr. Anderson's personal account and the account of Woody Anderson Ford. Mr. Anderson did not instruct me to write the check for this loan out of the Corporation account but from habit of writing more checks out of the Corporation account, I picked up this check book. I had no personal knowledge of this being a political contribution and did not think of it in any such manner as it was not unusual for Mr. Anderson to advance Mr. McLain money until a sale of a piece of their jointly owned property was sold and closed out.

Yours very truly,

Margaret D. Hightower

Margaret D. Hightower

State of Alabama
County of Madison

Before me personally appeared, Margaret D. Hightower, who is known to me and who states that the above is a true statement and that she has set her hand to this document of her own free will, this 21st day of September, 1978.

Judy Bice

Notary Public

MY COMMISSION EXPIRES 2-22-82

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Attachment III

CAPELL, HOWARD, KNABE & COBBS, P.A.

SUITE 1100
1511 K STREET, N. W.
WASHINGTON, D. C. 20005
(202) 783 7900

57 ADAMS AVENUE
POST OFFICE BOX 2069
MONTGOMERY, ALABAMA 36103
(205) 262-1671

WASHINGTON, D. C.
TIMOTHY SULLIVAN

DONALD J. CRONIN
OF COUNSEL

MONTGOMERY, ALABAMA

JACK L. CAPELL
FONTAINE M. HOWARD
WALTER J. KNABE
EDWARD E. COBBS
HERMAN H. HAMILTON, JR.
RUFUS M. KING
ROBERT S. RICHARD
JOHN B. SCOTT, JR.
L. LISTER HILL
JOHN F. ANDREWS
JAMES M. SCOTT
THOMAS E. LAWSON, JR.
JOHN L. CAPELL III
WILLIAM D. COLEMAN
WILLIAM K. MARTIN
JAMES R. SEALE
BRUCE J. DOWNEY III
RICHARD F. ALLEN
HENRY C. BARNETT, JR.
PALMER S. LEHMAN
ROBERT H. HARRIS

HAND-DELIVERED

October 2, 1978

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

Re: MUR 612

Dear Mr. Oldaker:

In our September 26, 1978 letter to you on behalf of Eugene M. McLain and Woody Anderson Ford, Respondents in the subject matter, we mentioned, at page 6, that on April 7, 1976 Mr. McLain deposited $29,324.61 in his checking account at The American National Bank of Huntsville. Mr. McLain obtained the deposited funds through the sale of some land in Pell City, Alabama.

We herewith enclose copies of the following documents relating to that transaction: (1) the sales contract; (2) the check from the purchaser, Bowman and Ferrell Real Estate & Construction, Inc.; (3) Mr. McLain's deposit slip; and (4) the Bank's receipt of deposit. We trust that the enclosed documentation will satisfy any questions which the Commission may have relating to this transaction, and we request that this letter and its enclosures be considered as an addendum to our letter of September 26, 1978.

Respectfully submitted,

CAPELL, HOWARD, KNABE & COBBS, P.A.

By Timothy Sullivan
Timothy Sullivan

Counsel to Eugene M. McLain
and Woody Anderson Ford

Enclosures
cc: Ms. Fran Hagan (w/encls.)

III

, Commission
, N.W.
D.C. 20463

of FEC FORM 3

(Indicate Primary or General Election for each Entry)

(Use Separate Schedules for each numbered line)

Name of Candidate and Committee in Full
Eugene M. McLain, Candidate

Attachment IV

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
Central Bank of Alabama, NA P. O. Box 127 Huntsville, Alabama 35804 ☒ Primary ☐ General ☐ Other	3/25/76	$30,000.00	-0-	$30,000.0

NATURE OF OBLIGATION (Details of Debt):
Personal signature note, unsecured, in the name of Eugene M. McLain. Note is renewable quarterly, with interest at 8%.

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
Woody Anderson Ford 516 Washington Street NW Huntsville, Alabama 35801 ☒ Primary ☐ General ☐ Other	2/11/76	$30,000.00	$30,000.00	-0-

NATURE OF OBLIGATION (Details of Debt):
Signature note from Eugene M. McLain to Woody Anderson Ford, payable on demand, with interest at 10% per annum. Secured by verbal pledge of future proceeds from sale of personal real estate owned by Eugene M. McLain.

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
Eugene M. McLain P. O. Box 2209 Huntsville, Alabama 35804 ☒ Primary ☐ General ☐ Other	4/23/76	$3,266.31	$3,266.31	-0-

NATURE OF OBLIGATION (Details of Debt):
Personal note - loan to McLain Campaign Committee, subsequently forgiven by Eugene M. McLain.

SUBTOTALS this period this page (optional)	$	$	$
TOTAL this period (last page this line number only)	$63,266.31	$33,266.31	$30,000

Carry outstanding balance only to appropriate line of summary.

STATEMENT OF PERSONAL FUNDS OF A
CANDIDATE FOR A FEDERAL ELECTION

The undersigned, Eugene K. Lo, residing at 4101 Piedmont Dr. SE Huntsville Ala. makes the following statement:

All personal funds expended by me on behalf of my campaign for Federal office are (as required by Section 110.10 of the Regulations of the Federal Election Commission):

Assets to which at the time of my candidacy I had legal and rightful title, or with respect to which I had the right of beneficial enjoyment, under applicable State law, and which I had legal right of access to or control over, including funds from immediate family members; and consists of salary and other earned income from bona fide employment; dividends and proceeds from the sale of personal stocks or other investments; bequests to me; income from trusts established before candidacy; income from trusts established by bequests after candidacy of which I am the beneficiary; gifts of a personal nature which had been customarily received prior to candidacy; proceeds from lotteries and similar legal games of chance.

Exceptions to the above:

Loans

(Signed) Eugene K. Lo

(Date) 9/28/77

Carolyn Newton
Commission Expires 10/3/79

Notary Statement

FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles W. Anderson
Woody Anderson Ford
516 Washington Street, N.W.
Huntsville, Alabama 35801

Re: MUR 612

Dear Mr. Anderson:

On January , 1979, the Commission determined that there is no probable cause to believe that Woody Anderson Ford violated 2 U.S.C. § 441b(a) by making a loan to a candidate for Federal office. Accordingly, we are closing the file in this matter.

If you have any questions regarding this matter, please contact Frances B. Hagan at (202) 523-4006.

Thank you for your cooperation.

Sincerely,

William C. Oldaker
General Counsel

cc: Timothy Sullivan
Cabell, Howard, Knabe
and Cobb, P.A.

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Eugene M. McLain
Gene McLain Real Estate
1402-B Memorial Parkway North
Box 2209
Huntsville, Alabama 35804

Re: MUR 612

Dear Mr. McLain:

On January , 1979, the Commission determined that there is no probable cause to believe that you violated 2 U.S.C. § 441b(a) by accepting a loan from Woody Anderson Ford. Accordingly, we are closing the file in this matter.

If you have any questions regarding this matter, please contact Frances B. Hagan at (202) 523-4006.

Thank you for your cooperation.

Sincerely,

William C. Oldaker
General Counsel

cc: Timothy Sullivan
Cabell, Howard, Knabe
and Cobb, P.A.

Garr

FEDERAL ELECTION COMMISSION

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

79 JAN 4 P2: 05

January 3, 1979

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 612

Please be advised that the General Counsel's Report on MUR 612 has been withdrawn from the agenda for January 10, 1979.

Thank you.

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

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE by pc

DATE: DECEMBER 20, 1978

SUBJECT: OBJECTION - MUR 612 - General Counsel's Report dated 12-17-78
Received in OCS 12-18-78, 4:09

The above-named document was circulated on a 48 hour vote basis at 10:30, December 19, 1978.

Commissioner Aikens submitted an objection at 9:57, December 20, 1978, thereby placing MUR 612 on the Executive Session Agenda for January 10, 1978.

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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: NOVEMBER 27, 1978

SUBJECT: MUR 612 - Interim Conciliation Report dated 11-21-78: Received in OCS: 11-24-78, 10:55

The above-named document was circulated on a 24 hour no-objection basis at 12:00, November 24, 1978.

The Commission Secretary's Office has received no objections to the Interim Conciliation Report as of 1:00 this date.

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November 22, 1978

MEMORANDUM TO: Margo Emmons

FROM: Eliese T. Gary

SUBJECT: 612

Please have the attached Interim Conciliation Report distributed to the Commission.

Thank you.

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RECEIVED
OFFICE OF THE

BEFORE THE FEDERAL ELECTION COMMISSION

78 NOV 22 A10: 55

In the Matter of	)	MUR 612
	)	
	)	
Mr. Eugene McLain and	)	
Woody Anderson Ford	)	

INTERIM CONCILIATION REPORT

During the audit of the McLain Campaign Committee, the Audit Division discovered that on February 11, 1976, Mr. Eugene McLain ("the Candidate") received a loan of $30,000 from Woody Anderson Ford, a corporation. The loan was obtained at the time Mr. McLain began his campaign for Federal office. The Candidate repaid the loan on June 21, 1976.

On June 21, 1978, the Commission found reason to believe that Mr. Eugene McLain and Woody Anderson Ford violated 2 U.S.C. § 441b(a) which prohibits contributing or accepting corporate monies in connection with a Federal election. On August 16, 1978, the Commission accepted this Office's recommendation and found reasonable cause to believe that a violation had occurred.

Upon notification of the Commission's action, the respondents retained counsel to prepare a counterproposal to the Commission's conciliation agreement.

Several discussions ensued between the concerned parties and this staff while the appropriate documents were accumulated

to accompany the respondents' counterproposal. In addition to the review of the documents, consideration of this proposal required study of several matters previously before the Commission to determine applicable precedents for this case. A final recommendation is being prepared for presentation to the Commission.

11/21/78
Date

William C. Oldaker
General Counsel

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5527

CAPELL, HOWARD, KNABE & COBBS, P.A.

SUITE 1100
1511 K STREET, N W
WASHINGTON, D C 20005
(202) 783-7900

57 ADAMS AVENUE
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MONTGOMERY, ALABAMA 36103
(205) 262-1671

WASHINGTON, D. C.
TIMOTHY SULLIVAN

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OF COUNSEL

MONTGOMERY, ALABAMA

JACK L. CAPELL
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JAMES R. SEALE
BRUCE J. DOWNEY III
RICHARD F. ALLEN
HENRY C. BARNETT, JR
PALMER S. LEHMAN
ROBERT H. HARRIS

HAND-DELIVERED

November 9, 1978

Ms. Fran Hagen
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: MUR 612

Dear Ms. Hagen:

Pursuant to your request, we enclose a copy of Check No. 70453, dated February 11, 1976, in the amount of $30,000, payable to Eugene M. McLain, drawn on Woody Anderson Ford Checking Account No. 110-846-8 at the First Alabama Bank of Huntsville, N.A. We also enclose a copy of the reverse side of that check, which side contains a stamp indicating that Mr. Eugene McLain deposited the check in his Account No. 2158086 at the American National Bank of Huntsville on April 2, 1976.

Please do not hesitate to contact the undersigned if you should have any additional questions relating to this matter.

Sincerely,

CAPELL, HOWARD, KNABE & COBBS, P.A.

By Timothy Sullivan
Timothy Sullivan
Counsel to Eugene M. McLain
and Woody Anderson Ford

Enclosures

CAPELL, HOWARD, KNABE & COBBS, P.A.
SUITE 1100
1511 K STREET, N. W
WASHINGTON, D. C. 20005

Ms. Fran Hagen
Federal Election Commission
1325 K Street, N.W.
4th Floor
Washington, D.C. 20463

HAND-DELIVERED

GCC #
5069

CAPELL, HOWARD, KNABE & COBBS, P.A.

SUITE 1100
1511 K STREET, N. W.
WASHINGTON, D. C. 20005
(202) 783 7900

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MONTGOMERY, ALABAMA 36103
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TIMOTHY SULLIVAN

DONALD J. CRONIN
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MONTGOMERY, ALABAMA

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BRUCE J. DOWNEY III
RICHARD F. ALLEN
HENRY C. BARNETT, JR
PALMER B. LEHMAN
ROBERT H. HARRIS

HAND-DELIVERED

October 2, 1978

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

Re: MUR 612

Dear Mr. Oldaker:

In our September 26, 1978 letter to you on behalf of Eugene M. McLain and Woody Anderson Ford, Respondents in the subject matter, we mentioned, at page 6, that on April 7, 1976 Mr. McLain deposited $29,324.61 in his checking account at The American National Bank of Huntsville. Mr. McLain obtained the deposited funds through the sale of some land in Pell City, Alabama.

We herewith enclose copies of the following documents relating to that transaction: (1) the sales contract; (2) the check from the purchaser, Bowman and Ferrell Real Estate & Construction, Inc.; (3) Mr. McLain's deposit slip; and (4) the Bank's receipt of deposit. We trust that the enclosed documentation will satisfy any questions which the Commission may have relating to this transaction, and we request that this letter and its enclosures be considered as an addendum to our letter of September 26, 1978.

Respectfully submitted,

CAPELL, HOWARD, KNABE & COBBS, P.A.

By Timothy Sullivan
Timothy Sullivan

Counsel to Eugene M. McLain
and Woody Anderson Ford

Enclosures
cc: Ms. Fran Hagan (w/encls.)

CAPELL, HOWARD, KNABE & COBBS, P.A.
SUITE 1100
1511 K STREET, N. W.
WASHINGTON, D. C. 20005

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

ACC #
5026

CAPELL, HOWARD, KNABE & COBBS, P.A.

ATTORNEYS AT LAW
57 ADAMS AVENUE
POST OFFICE BOX 2069
MONTGOMERY, ALABAMA 36103
(205) 262-1671

WASHINGTON OFFICE:
SUITE 1100
1511 K STREET, N. W.
WASHINGTON, D. C. 20005
(202) 783-7900
TIMOTHY SULLIVAN

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RICHARD F. ALLEN
HENRY C. BARNETT, JR.
PALMER S. LEHMAN
ROBERT H. HARRIS

*(ADMITTED ALABAMA AND DISTRICT OF COLUMBIA)

September 26, 1978

HAND-DELIVERED

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

Re: MUR 612

Dear Mr. Oldaker:

Eugene M. McLain and Woody Anderson Ford ("Respondents") have asked us to reply to your August 18, 1978 letters enclosing the Federal Election Commission's ("FEC") proposed conciliation agreements which stipulate (1) that each Respondent intentionally violated 2 U.S.C. Section 441b(a) of the Federal Election Campaign Act (the "Act"); and (2) that each will pay a penalty of $150.00 as a result of the alleged violations. According to the respective conciliation agreements, Respondents allegedly violated 2 U.S.C. Section 441b(a) when Woody Anderson Ford loaned $30,000 to Eugene McLain on February 11, 1976, two days after Mr. McLain began reporting receipts and expenditures to the FEC as a candidate for the United States House of Representatives.

During an August 30, 1978 meeting with Mr. Kenneth Gross and Ms. Fran Hagan of the FEC, we articulated numerous reasons why Respondents will neither sign a conciliation agreement nor agree to pay a penalty to the Government no matter how insignificant the sum. The purpose of this letter is to (1) provide written confirmation of Respondents' contentions; (2) introduce new evidence which provides additional support for Respondents' arguments; and (3) request that the FEC rescind its earlier determination and dismiss this matter immediately.

I. Brief Statement of Facts.

On February 9, 1976, Eugene M. McLain, a real estate developer and speculator in Huntsville, Alabama, began reporting receipts and expenditures to the FEC as a candidate for the U.S. House of Representatives. On February 11, 1976, Woody Anderson Ford, an automobile dealership in Huntsville, loaned $30,000 to McLain. The loan, which was memorialized by a note bearing an interest rate of ten percent per annum, was secured against McLain's anticipated proceeds from a pending sale of land owned jointly by McLain and C.W. Anderson, President of Woody Anderson Ford. On June 17, 1976, the day the sale of land was closed, Mr. McLain repaid the loan in full. A 1978 audit by the FEC has resulted in the Commission's determination that Respondents violated 2 U.S.C. Section 441b(a), which reads in pertinent part:

> (a) It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office, or in connection with any primary election or political convention or caucus held to select candidates for any political office, or for any corporation whatever, or any labor organization to make a contribution or expenditure in connection with any election at which Presidential and Vice Presidential electors or a Senator or Representative in, or a Delegate or Resident Commissioner to Congress are to be voted for, or in connection with any primary election or political convention or caucus held to select candidates for any of the foregoing offices, or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section, or for any officer or any director of any corporation or any national bank or any officer of any labor organization to consent to any contribution or expenditure by the corporation, national bank, or labor organization, as the case may be, prohibited by this section.

II. Respondents Did Not Violate 2 U.S.C. Section 441b(a) Because the Loan Had no Connection with Mr. McLain's Political Campaign.

The Commission staff has expressed its belief that the mere use of any of the $30,000 loan proceeds by Mr. Mclain in his campaign is evidence that the February 11, 1976 loan was a prohibited contribution made by Woody Anderson Ford "in connection with" the election and "knowingly" accepted by Mr. McLain "in connection with" his election. As Respondents shall demonstrate herein, however, the loan was a transaction which was consummated in the ordinary course of business, was similar to prior loans under identical circumstances, and had no connection whatsoever with Mr. McLain's political campaign. Further, the proceeds of the loan were not used in Mr. McLain's political campaign.

A. The Loan was a Routine Business Transaction Consistent with a Prior Course of Conduct Between the Parties.

Mr. McLain and C.W. Anderson, President of Woody Anderson Ford, are joint owners of a large piece of commercial property in Huntsville. As in the February 11, 1976 loan, when portions of the property were about to be sold over the past several years, Mr. McLain would borrow funds from Mr. Anderson secured against the anticipated proceeds of the respective sale. Mr. McLain, whose real estate dealings involve tremendous amounts of commercial paper and financial risk, was then able to use the borrowed funds to meet other business needs. As both Mr. McLain and Mr. Anderson have stated under oath (See Exhibits A and B), the February 11, 1976 loan was solely a business transaction consistent with a well-established course of conduct between Mr. McLain and Mr. Anderson. As evidence of the course of conduct between Messrs. McLain and Anderson, it should be noted that the Commission possesses (1) the note executed on February 11, 1976; (2) a note dated March 31, 1975 evidencing a $30,000 personal loan from Mr. Anderson to Mr. McLain under identical business circumstances; and (3) a note dated October 1, 1975 evidencing a $30,000 loan from

Woody Anderson Ford to Mr. McLain under identical business circumstances. As in the 1976 loan, Mr. McLain repaid each loan, with interest, at the time the respective sale closed.

B. There was No "Intent" by Either Party that the Proceeds of the Loan Would be used in Mr. McLain's Political Campaign.

Both gentlemen treated the transaction as a personal loan: (1) Mr. Anderson has stated under oath that his personal secretary apparently made the decision to disburse the funds out of the Woody Anderson Ford corporate account rather than his personal account, even though similar loans had been made out of both accounts in the past. (Exhibit C.) Further, we have attached as Exhibit D a sworn statement by Mr. Anderson's secretary, Ms. Margaret D. Hightower, which describes the circumstances surrounding the drawing of the disputed note and check and which clearly shows that the decision to use corporate funds rather than personal funds was a ministerial function routinely performed by Ms. Hightower. As Ms. Hightower has stated, she had drawn several similar notes and checks for business transactions between Woody Anderson and Eugene McLain, and in her view this transaction was no different from the others.

(2) Mr. McLain, who constantly seeks financing to support his real estate dealings, generally uses a personal financial statement to secure such financing. We have attached Mr. McLain's personal financial statement as of May 14, 1976. (Exhibit E.) That statement is significant because it lists the disputed $30,000 loan as a note "payable to individuals" rather than to a corporation. This description was not intended to mislead a potential lender;* rather, it simply reflected Mr. McLain's general impression that the loan was from Mr. Anderson personally. The financial statement also makes it clear

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* To a potential lender the amount of the debt was the only important consideration. It did not matter whether the creditor was an individual or a corporation.

that the $30,000 loan was minor in relation to Mr. McLain's net worth on the date of the loan and when viewed in light of other liabilities outstanding during that period. Finally, the personal financial statement makes it evident that the loan was not an unusual financial transaction for Mr. McLain at the time, but instead was just one of many loans required to operate his real estate business.

Thus, both Respondents viewed the loan as a personal business transaction and neither Respondent viewed the loan as being made "in connection with" Mr. McLain's political campaign.

C. A $30,000 Political Loan Would Not Have Been Consistent with Anderson's Political Activities.

Although Mr. McLain and Mr. Anderson have been personal friends and business associates for several years, they have not been political allies. For example, Mr. Anderson supported Harry Pennington, Mr. McLain's opponent in a 1970 primary campaign for a seat in the Alabama State Senate. More recently, Mr. Anderson was County Coordinator and fundraising chairman for George Wallace when Wallace and McLain vied for the Democratic gubernatorial nomination in 1974. Most importantly, however, in the 1976 primary campaign which is in issue here, Mr. Anderson personally contributed $1,000 to both Mr. McLain and his opponent, Mr. Jyles Machen, and Mr. Anderson voted for Mr. Machen. (Exhibit D.) In summary, a $30,000 loan from Mr. Anderson (or his company) to Mr. McLain's political campaign would have been totally inconsistent with Mr. Anderson's past activities as well as his activities in the 1976 campaign for Congress.

D. The Proceeds of the Loan Were Not Used in Mr. McLain's 1976 Political Campaign.

Since the $30,000 which Mr. McLain had borrowed represented his share of a pending real estate transaction, Mr. McLain treated the borrowed funds as his own and deposited the funds in his business account at the American National Bank of Huntsville on April 2, 1976. We have attached copies of Mr. McLain's bank

statement for April, 1976, as well as copies of all checks listed in that statement. (Exhibit F.) Although the statement and cancelled checks speak for themselves, their significance may be summarized as follows: During the month of April, 1976, the maximum amount in Mr. McLain's account was $60,369.17. That amount was comprised primarily of the $30,000 obtained from Woody Anderson Ford (deposited on April 2, 1976) and $29,324.61 (deposited on April 7, 1976) representing proceeds from the sale of some land in Pell City, Alabama. At the end of April, 1976, only $391.47 remained in the account. Of the $59,977.70 which Mr. McLain spent from the account, only $28,000 (see Check Nos. 652 and 653) was used for the campaign, which amount was covered by the $29,324.61 sale of land in Pell City. As the cancelled checks indicate, the balance of the funds ($31,977.70) was used for business purposes. Thus, not only was the $30,000 loan meant to be a business transaction, these records clearly establish that the money was used for business purposes.

III. FEC Precedent Does Not Support the Commission's Finding.

Viewed together, the above items serve as conclusive evidence to support Respondents' position that the February 11, 1976 loan had no connection with Mr. McLain's political campaign. In addition, and as demonstrated below, FEC precedent fails to support the Commission's finding that Respondents violated 2 U.S.C. Section 441b(a).

Our research indicates that the Commission has not previously considered a case similar to the instant situation; however, other Commission decisions compel the conclusion that the Commission should rescind its current position and dismiss this matter immediately. On December 17, 1976, in MUR-149(76), the Commission determined that there was probable cause to believe that Ms. Jane Fonda had violated the individual limitations of 2 U.S.C. Section 441a(1)(A) and 2 U.S.C. Section 441a(a)(3) when Ms. Fonda transferred $314,050 to the Hayden for Senate Committee, the Committee which supported her husband's, Tom Hayden, campaign for the U.S. Senate. The transfer, which exceeded by $289,050 the $25,000 contribution ceiling set forth in 2 U.S.C. Section 441(a)(3), was made with funds from two separate accounts: (1) $64,050 from an account in Ms. Fonda's name and (2) $250,000 from

loan proceeds which Ms. Fonda had borrowed from her employers, Twentieth Century Fox Corporation and United Artists Corporation, which loans were secured by Ms. Fonda's "future earnings." The loans were made subsequent to Mr. Hayden's announcement of candidacy in June, 1975.

The Commission instituted conciliation proceedings during which Fonda and Hayden submitted additional factual and legal evidence supporting their arguments that, under the community property laws in California, Hayden had had legal access to or control over his wife's funds and that the money transferred to his committee amounted to personal funds which Hayden could draw upon for his candidacy. Upon re-opening the investigation, the Commission agreed with Respondents and held that there was "no longer reasonable cause to believe that Respondents have violated Section 441a."

More important with regard to the instant situation, however, in reversing its prior determination in MUR-149(76), the Commission also gave careful consideration to whether the loans to Ms. Fonda from her employers were illegal corporate contributions in violation of 2 U.S.C. Section 441b(a). In your June 3, 1977 "Interim Conciliation Report" recommending that the Commission close the file, you stated:

> Implicit in the facts noted above is the possibility that the advances from Twentieth Century Fox and United Artists could be viewed as "made . . . in connection with a federal election." All parties state that the loans were advances against future movies and we have obtained no evidence to refute this. The proximity in time between the loans and the transfers of large sums of money to the Hayden campaign from the New York account, do raise the possibility that not only did Ms. Fonda borrow the money with the intention of putting it into the campaign but that the corporations approved that intention. As noted, however, we have no evidence to support such a connection, and without some evidence that the discussions between Ms. Fonda and the corporations leading to the loan involved something more than an advance against earnings which she could have obtained for other purposes, it would seem difficult to proceed on a theory that the loan was, in fact, a corporate contribution. Id. at 5-6.

The above discussion applies squarely to the facts of the instant case. All parties state that the loan was a mere "advance" against a real estate transaction which was to close in a matter of a few months. And, indeed, in Mr. McLain's case the transaction was consummated as expected and the loan was repaid with interest, just as in similar past transactions. There is no evidence whatsoever to support the Commission's position that the loan was made in connection with a federal election. All of the statements by Respondents show that the loan was made in the ordinary course of business; and, as in MUR-149(76), it would appear that the Commission lacks sufficient evidence to proceed on the theory that the loan was in fact a corporate contribution. Further, whereas in MUR-149 there was no doubt that the disputed funds were used in Mr. Hayden's campaign, in the instant situation the funds were not used in Mr. McLain's campaign. Thus, the FEC has even more reason to dismiss this matter immediately.

One other Commission decision merits discussion. On June 6, 1977, you issued a "General Counsel's Report" in MUR-216/239 (76). That matter involved allegations relating to James Sasser's primary campaign for the U.S. Senate in Tennessee. The Commission alleged, inter alia, that certain bank loans to Sasser's campaign committee were not made in the ordinary course of business as required by 2 U.S.C. Section 431(e)(5)(G), making them illegal corporate contributions under 2 U.S.C. Section 441b.

Based on information provided primarily by Respondent Sasser, and an analysis of relevant case law, approaches taken by other agencies, Federal banking regulations and general corporate law, you concluded that:

> Both by comparison to the general tests of banking and corporate law and by measurement against the standard of FECA . . . the burden of proof seems to lie on the Commission to identify and demonstrate characteristics or facts about particular loans which identify why the transactions seem out of the ordinary. MUR-216/239(76), General Counsel's Report, at 20.

You then proceeded to delineate eight questions which you stated would be relevant to the determination of whether a loan was made in the ordinary course of business.* Id. at 20-24. After analyzing the facts of the Sasser case with those eight questions, you concluded:

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* The eight questions were: (1) Did the loan comply with Federal banking laws and regulations? (2) What were the terms of the loan? (3) How was the loan obtained? Were

> Absent evidence in addition to the existence of such personal relationships and the knowledge that the loans were to finance Mr. Sasser's campaign, it would be difficult to prove that the dominant motive was not an acceptable business one but rather was to aid Mr. Sasser's candidacy. And even if such a conciliation is reached, the cases cited above suggest the reluctance of the courts to set aside as improper a business judgment, even where personal motives intervene, where the business judgment is supportable on independent grounds. Id. at 30-31

Based on your review, you recommended that the Commission determine (1) that there was insufficient evidence to support a finding of reasonable cause to believe that the loans were not in the ordinary course of business; and (2) that Sasser had demonstrated sufficient reason why no action should be taken against him with respect to the failure to correctly report the loans. Id. at 34.

As in the Sasser case, it would be extremely difficult, if not impossible, to prove that the dominant motive in the February 11, 1976 loan was not an acceptable business one but rather to aid Mr. McLain's candidacy. In line with the substance of the eight questions you used to analyze the Sasser case, it is relevant to note that the terms of the disputed loan were reasonable; that the loan was effected in accordance with prior practices under identical circumstances; that the parties to the loan were business associates who had entered into similar agreements several times before; that repayment with interest was expected and was a reasonable expectation in light of past transactions; and that Mr. McLain was worthy of credit. In short, even the line of analysis recommended by your office leads to the conclusion that the disputed loan was solely a business transaction.

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normal channels observed? (4) Who authorized the loan? (5) Was there sufficient evidence to support the credit judgment at the time the loan was made? (6) Did the bank expect repayment? And, was the expectation of repayment reasonable? (7) Does the bank have loans of a similar nature? (8) If more than one bank is involved in the transaction, what is the relationship among the various banks?

Read together, and in light of the additional information provided herein, the Sasser and Fonda decisions compel the conclusion that the Commission lacks the evidence to support a finding of reasonable cause to believe that either Respondent violated 2 U.S.C. Section 441b(a) of the Federal Election Campaign Act. To the contrary, the preponderance of the evidence supports Respondents' contentions that the loan had no connection with Mr. McLain's political campaign. Moreover, the fact that the Commission has proffered conciliation agreements stipulating penalties of $150.00 each implies that the Commission itself is aware of the dearth of evidence to support its findings. In discussions with Commission staff members, we have been advised that the fines were minimal due to "mitigating circumstances." We believe that similar mitigating circumstances played major roles in the Commission's decision to dismiss the charges in MUR-149(76) and MUR-216/239(76), and identical action must be taken here.

Based on the above, it is clear that the disputed loan had no connection with Mr. McLain's political campaign, and neither Respondent can execute a conciliation agreement which becomes a matter of public record and which constitutes an admission that either Respondent violated the law. Obviously, the sum of $150.00 is not the issue which concerns Respondents. As a matter of principle, neither Respondent can agree that a violation of the Act occurred, even if to do so would be less expensive and less burdensome than continuing to maintain their innocence; and it is this fundamental belief that they did nothing wrong -- that the loan was simply a routine business transaction -- that causes Respondents to refuse to sign the proffered agreements.

For the above reasons, Respondents request that the Commission (1) re-open this matter for further consideration and (2) rescind its earlier determination that there was reasonable cause to believe that Respondents violated 2 U.S.C. Section 441b (a) of the Federal Election Campaign Act.

Please direct all correspondence and inquiries relating to this matter to the attention of the undersigned in the Washington office of this firm.

Respectfully submitted,

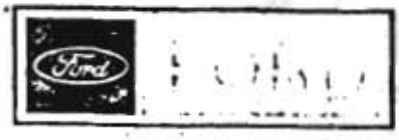
CAPELL, HOWARD, KNABE & COBBS, P.A.

By Timothy Sullivan
Timothy Sullivan

Counsel for Eugene M. McLain and
Woody Anderson Ford

Exhibits A through F

EXHIBIT A



WOODY ANDERSON FORD
Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

July 5, 1978

Ms. Fran Hagan
Federal Election Commission
1325 K Street NW
Washington, D. C. 20463

Dear Ms. Hogan:

In reference to your letter of June 28, I would like to state to you that there was no intent on my part to violate any Federal Election laws. As I stated to you over the telephone, from time to time over the last several years I had business dealings with Mr. McLain because he and I are joint owners of a piece of commercial property located in Huntsville, Alabama, on University Drive. I own 75% interest in this property and Mr. McLain owns 25%, which is totally paid for.

Portions of the property have been sold and from time to time I have, as the records will reflect, advanced certain monies to Mr. McLain on the sale of this property while a deal was being closed out. Some of the time there has been a mortgage drawn up to secure these advances and some of the time a note. All of these loans were handled in a business like manner and interest was paid to me at the time of closing of the sale or imediately thereafter.

At the time this loan was made, there was no consideration given to its being a campaign contribution. I sincerely hope that this matter can be resolved without costing me and the tax payers a lot of money. I can truthfully say to you that I instructed Mrs. Hightower, my secretary, to draw up the note and I did not know at the time whether the money was being disbursed out of the company account or out of my personal account.

Yours very truly,

C. W. Anderson
President

WOODY ANDERSON FORD
Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

State of Alabama
County of Madison

Personally appeared before me, Judy Bice, a Notary Public in and for said county and state, C. W. (Woody) Anderson, who is personally known to me and who swears to the truth of the attached statement and has signed said statement of his own free will, this 5th day of July, 1978.

Judy Bice
Notary Public MY COMMISSION EXPIRES 2-22-82

EXHIBIT B

GENE McLAIN
BETH H McLAIN
BUDDY CHAPMAN
D SCOTT McLAIN
J. N MASON

1402-B MEMORIAL PARKWAY NORTH • P.O. BOX 2209 • HUNTSVILLE, ALABAMA 35804
TELEPHONE 205 533-3414

July 5, 1978

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

Dear Mr. Oldaker: Re: MUR 612

In response to your letter dated June 28, 1978, received in my office on July 5, 1978, and as a supplement to my letter of May 18, 1978, addressed to Ms. Sue Paschen and attached hereto, this is to clarify that the money borrowed was not a political loan and was not designated as such, and, as a matter of fact, politics was not mentioned. The documentation attached to my letter of May 18 to Ms. Paschen is evidence that this loan was consistent with a pattern of borrowing from Woody Anderson and, in this particular case, Woody Anderson Ford, over a period of years, since we have been partners in a particular piece of real estate. In each instance that I have borrowed money from Woody Anderson, we had a sale pending and the loan did not exceed the amount that was forthcoming from the sale.

I have gone over with your staff the current loans I have outstanding with individuals, banks, and corporations, which total several hundred thousand dollars, which illustrates that the amount of money involved in this instance was not a major amount compared to total short-term indebtedness.

I would also point out that interest has been paid in each instance, and that these were arms-length business transactions. I trust the foregoing will satisfactorily explain the circumstances, but, in the event you desire for me to appear in person, I will do so. While this is in the form of a letter, I am going to have it notarized, and I am presenting this under oath.

Sincerely,

Eugene M. McLain

Eugene M. McLain

EMM:cm

cc: Ms. Fran Hagan

STATE OF ALABAMA)
MADISON COUNTY)

Sworn and subscribed before me this 5th day of July, 1978.

Notary Public
My Commission Expires: 10/3/79

EXHIBIT C

WOODY ANDERSON FORD
Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

September 21, 1978

To Whom It May Concern:

On March 26, 1976, I made a $1000.00 contribution to Gene McLain's political campaign from my personal checking account. (Enclosure 1) This was my total involvement with Mr. McLain's campaign. In fact I also made a $1000.00 contribution to Jyles Machen (Enclosure 2), an opponent of Mr. McLain; and my wife and I both voted for Jyles Machen.

Mr. Gene McLain and I have been on opposite ends of the political arena from the time he ran for State Senate some years ago. When Mr. McLain ran for Governor in 1974, I was County Co-ordinator and fund raising Chairman for George Wallace, Mr. McLain's opponent.

I realize we could have settled this matter for a token payment, but I will not plead guilty to something I have not done. I feel very strongly about this. If I had been guilty of the infraction cited in the FEC's conciliation agreement, I would not have hesitated to pay the token fine.

Yours very truly,

Charles W. Anderson

State of Alabama
County of Madison

Before me personally appeared, Charles W. Anderson, who is known to me and who states that the above is a true statement and that he has this September 21, 1978, signed this document of his own free will.

Judy Bice
Notary Public
MY COMMISSION EXPIRES 2-22-82

EXHIBIT D

FORD

WOODY ANDERSON FORD

Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

September 21, 1978

To Whom It May Concern:

I, Margaret D. Hightower, am Secretary of Woody Anderson Ford, a corporation. A few days prior to February 11, 1976, Mr. C. W. Anderson instructed me to draw up a note on a particular piece of property jointly owned by he and Gene McLain, and which had been sold. They were waiting to close the deal and receive payment for the property. Mr. Anderson was out of town on the day that I drew up this note and advanced Mr. McLain the $30,000.00 against the future settlement of this sale. I am authorized to sign checks on both Mr. Anderson's personal account and the account of Woody Anderson Ford. Mr. Anderson did not instruct me to write the check for this loan out of the Corporation account but from habit of writing more checks out of the Corporation account, I picked up this check book. I had no personal knowledge of this being a political contribution and did not think of it in any such manner as it was not unusual for Mr. Anderson to advance Mr. McLain money until a sale of a piece of their jointly owned property was sold and closed out.

Yours very truly,

Margaret D. Hightower

Margaret D. Hightower

State of Alabama
County of Madison

Before me personally appeared, Margaret D. Hightower, who is known to me and who states that the above is a true statement and that she has set her hand to this document of her own free will, this 21st day of September, 1978.

Judy Bice

Notary Public

MY COMMISSION EXPIRES 2-22-82

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

MEMORANDUM TO CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

DATE: SEPTEMBER 8, 1978

SUBJECT: MUR 612 - Interim Status Report dated 8-31-78: Signed: 9-6-78: Received in Office of Commission Secretary: 9-7-78, 11:18

The above-named document was circulated on a 24 hour no-objection basis at 4:00 p.m., September 7, 1978.

The Commission Secretary's Office has received no objections to Interim Status Report as of 4:00 p.m. this date.

7904010291 3

September 7, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 612

Please have the attached Interim Status Report on MUR 612 distributed to the Commission.

Thank you.

7904010291 4

BEFORE THE FEDERAL ELECTION COMMISSION

AUGUST 31, 1978

In the Matter of	)	
	)	
Mr. Eugene McLain and Woody Anderson Ford	)	MUR 612
	)	

INTERIM STATUS REPORT

During the audit of the McLain Campaign Committee, the Audit Division discovered that on February 11, 1976, Mr. Eugene McLain ("the Candidate") received a loan of $30,000 from Woody Anderson Ford, a corporation. The loan was obtained at the time Mr. McLain began his campaign for Federal office. The Candidate repaid the loan on June 21, 1976.

On June 21, 1978, the Commission found reason to believe that Mr. Eugene McLain and Woody Anderson Ford violated 2 U.S.C. § 441b(a) which prohibits contributing or accepting corporate monies in connection with a Federal election. Following our further examination of the case, including a review of statements from both respondents, the Commission accepted this Office's recommendation and, on August 16, 1978, found reasonable cause to believe that a violation had occurred.

Upon notification of the Commission's action, the respondents retained counsel to prepare a counterproposal to the Commission's

Conciliation Agreement. We have discussed the matter with the respondents' attorney and expect a written response within a week. At that time, we will present the matter to the Commission.

9/6/78
Date

William C. Oldaker
General Counsel

CAPELL, HOWARD, KNABE & COBBS, P.A.

ATTORNEYS AT LAW
87 ADAMS AVENUE
POST OFFICE BOX 2069
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WASHINGTON OFFICE:
SUITE 1100
1511 K STREET, N. W.
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(202) 783-7900
*DONALD J. CRONIN, COUNSEL

JACK L. CAPELL
FONTAINE M. HOWARD
WALTER J. KNABE
* EDWARD E. COBBS
* HERMAN H. HAMILTON, JR
* RUFUS M. KING
ROBERT S. RICHARD
JOHN B. SCOTT, JR.
L. LISTER HILL
JOHN F. ANDREWS
JAMES M. SCOTT
THOMAS S. LAWSON, JR.

JOHN L. CAPELL III
WILLIAM D. COLEMAN
WILLIAM K. MARTIN
JAMES R. SEALE
* BRUCE J. DOWNEY III
RICHARD F. ALLEN
HENRY C. BARNETT, JR
PALMER S. LEHMAN
ROBERT H. HARRIS
CLINTON B. SMITH
* (ADMITTED ALABAMA AND DISTRICT OF COLUMBIA)

August 30, 1978

HAND DELIVERED

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

Re: MUR 612

Dear Mr. Oldaker:

Eugene M. McLain and Woody Anderson Ford have asked us to write to you with regard to your August 18, 1978 letters enclosing the Federal Election Commission's proposed conciliation agreements which you were prepared to recommend to the Commission in settlement of this matter. Your letters were received on Monday, August 21, 1978. We are writing to advise you that negotiations relating to the proposed agreements currently are underway, and we request that no further action be taken by the Commission until all negotiations have concluded.

Please direct all communications relating to this matter to the undersigned in the Washington office of this firm.

Respectfully submitted,

CAPELL, HOWARD, KNABE & COBBS, P.A.

By Timothy Sullivan
Timothy Sullivan
Counsel to Eugene M. McLain
and Woody Anderson Ford

cc: Ms. Fran Hagan

CAPELL, HOWARD, KNABE & COBBS, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 2069
MONTGOMERY, ALABAMA 36103

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

HAND DELIVERED

CAPELL, HOWARD, KNABE & COBBS, P.A.
ATTORNEYS AT LAW
POST OFFICE BOX 2069
MONTGOMERY, ALABAMA 36103

Ms. Fran Hagan
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

HAND DELIVERED

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

August 18, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Eugene M. McLain
Gene McLain Real Estate
1402-B Memorial Parkway North
Box 2209
Huntsville, AL 35804

Re: MUR 612

Dear Mr. McLain:

On August 16, 1978, the Federal Election Commission found reasonable cause to believe that you violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act by accepting a corporate loan/contribution in connection with your campaign for Federal office.

Please be advised that the Commission has a duty to make every endeavor for a period of not less than 30 days to correct such a violation by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. § 437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. § 437g(a)(5)(B).

Enclosed please find a conciliation agreement which this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of this agreement, please sign it and return it to the Commission within ten days of your receipt of this letter. If not, please contact Fran Hagan at 202-523-4006, to discuss your objections to the agreement.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

7 9 0 4 0 1 0 2 9 2 0

F H 612

PS Form 3811 Apr. 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

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

2. ARTICLE ADDRESSED TO:

Mr. Eugene M. McLain

3. ARTICLE DESCRIPTION

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	438193	

(Always obtain signature of addressee or agent)

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

4. Claudia Folgmann

DATE OF DELIVERY: AUG 21 1978

POSTMARK: AUG 21 1978

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆GPO: 1977-0-249-595

7 9 0 4 0 1 0 2 9 2 1

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Eugene McLain	)	MUR 612

CONCILIATION AGREEMENT

This matter having been initiated by the Commission in the ordinary course of carrying out its supervisory responsibilities and, after an investigation, the Commission having found reasonable cause to believe that Mr. Eugene M. McLain (hereinafter referred to as "Respondent") violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act ("the Act"), by accepting a corporate loan/ contribution in connection with his campaign for Federal office.

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

I. The Federal Election Commission has jurisdiction over the respondent and the subject matter in the case.

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

III. Respondent enters voluntarily into this Agreement with the Commission.

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

A. Respondent began reporting receipts and expenditures to the Federal Election Commission on February 9, 1976 as a candidate for U. S. House of Representatives.

B. Respondent received a loan of $30,000 from Woody Anderson Ford, an incorporated automobile dealership, on February 11, 1976. The loan was secured by anticipated proceeds from a pending

sale of real estate owned jointly by the Respondent and Mr. Charles W. Anderson of Woody Anderson Ford. The loan was repaid with interest within four months, on June 21, 1976.

WHEREFORE, Respondent agrees that:

I. 2 U.S.C. §441b(a) makes it unlawful for any candidate, political committee, or other person knowingly to accept or receive a corporate contribution in connection with any election to any Federal political office. Acceptance of corporate monies in connection with an election for U. S. House of Representatives is a violation of 2 U.S.C. § 441b(a).

II. Respondent will pay a civil penalty in the amount of $150.00 to the United States Treasury pursuant to 2 U.S.C. § 437g (a)(5)(B).

GENERAL CONDITIONS

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

II. It is further agreed that this Conciliation Agreement is entered into in accordance with 2 U.S.C. § 437g(a)(5)(A), and that this Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matter set forth in this Agreement.

III. It is mutually agreed that this Agreement will become effective on the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

FEDERAL ELECTION COMMISSION

_____
Date

_____
William C. Oldaker
General Counsel

_____
Date

_____
Eugene McLain
Respondent

7 9 0 4 0 1 0 0 9 2 1

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

August 18, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles W. Anderson
Woody Anderson Ford
516 Washington Street, N.W.
Huntsville, AL 35801

Re: MUR 612

Dear Mr. Anderson:

On August 16, 1978, the Federal Election Commission found reasonable cause to believe that Woody Anderson Ford violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act by making a corporate contribution in connection with an election for Federal office.

Please be advised that the Commission has a duty to make every endeavor for a period of not less than 30 days to correct such a violation by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. § 437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. § 437g(a)(5)(B).

Enclosed please find a conciliation agreement which this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of this agreement, please sign it and return it to the Commission within ten days of your receipt of this letter. If not, please contact Fran Hagan at 202-523-4006 to discuss your objections to the agreement.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

FH 612

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

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

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

2. ARTICLE ADDRESSED TO:

[illegible]

3. ARTICLE DESCRIPTION

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	438194	

(Always obtain signature of addressee or agent)

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

4. Grace Duck

DATE OF DELIVERY	POSTMARK
5/2/78	

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆GPO: 1977-0-249-595

7 9 0 4 0 1 0 2 9 2 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Woody Anderson Ford	)	MUR 612

CONCILIATION AGREEMENT

This matter having been initiated by the Commission in the ordinary course of carrying out its supervisory responsibilities and, after an investigation, the Commission having found reasonable cause to believe that Woody Anderson Ford (hereinafter referred to a "the Respondent") violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act ("the Act") by making a loan/contribution in connection with a Federal election.

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

I. The Federal Election Commission has jurisdiction over the respondent and the subject matter in the case.

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

III. Respondent enters voluntarily into this Agreement with the Commission.

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

A. Respondent is an incorporated automobile dealership.

B. Respondent made a loan of $30,000 to Eugene M. McLain, candidate for U. S. House of Representatives, on February 11, 1976. The Loan was secured by anticipated proceeds from a pending sale of real estate owned jointly by Mr. Charles W. Anderson of Woody Anderson Ford and Mr. Eugene McLain.

The loan was repaid with interest within four months, on June 21, 1976.

WHEREFORE, Respondent agrees that:

I. 2 U.S.C. § 441b(a) makes it unlawful for any corporation to make a contribution in connection with any election to any Federal political office. Making a loan drawn on a corporate account to a candidate for U. S. House of Representatives is in violation of 2 U.S.C. § 441b(a).

II. Respondent will pay a civil penalty in the amount of $150.00 to the United States Treasury pursuant to 2 U.S.C. § 437g (a)(5)(B).

GENERAL CONDITIONS

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

II. It is further agreed that this Conciliation Agreement is entered into in accordance with 2 U.S.C. § 437g(a)(5)(A), and that this Agreement, unless violated, shall constitute a complete bar to any further action by the Commission with regard to the matter set forth in this Agreement.

III. It is mutually agreed that this Agreement will become effective on the date that all parties hereto have executed the same and the Commission has approved the entire Agreement.

FEDERAL ELECTION COMMISSION

Date

William C. Oldaker
General Counsel

Date

Charles W. Anderson, President
Woody Anderson Ford

August 14, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 612

Please have the attached General Counsel's Report on MUR 612 distributed to the Commission on a 48 hour tally basis.

Thank you.

7904010293 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 612
Mr. Eugene McLain and	)	
Woody Anderson Ford	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on August 16, 1978, the Commission determined by a vote of 5-0 to adopt the recommendation of the General Counsel to take the following actions in the above-captioned matter:

1. Find reasonable cause to believe that Mr. Eugene McLain accepted a corporate loan/contribution in violation of 2 U.S.C. §441b(a).

2. Find reasonable cause to believe that Woody Anderson Ford made a corporate loan/contribution in violation of 2 U.S.C. §441b(a).

3. Send the letters and conciliation agreements attached to the General Counsel's Report dated August 9, 1978.

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

Attest:

8/17/78
Date

Margaret E. Chaney
for Marjorie W. Emmons
Secretary to the Commission

Report signed:	8-10-78
Received in Office of Commission Secretary:	8-14-78, 10:04
Circulated on 48 hour vote basis:	8-14-78, 3:00

BEFORE THE FEDERAL ELECTION COMMISSION

AUGUST 9, 1978

In the Matter of	)	
	)	
Mr. Eugene McLain and Woody Anderson Ford	)	MUR 612
	)	

GENERAL COUNSEL'S REPORT

On June 21, 1978, the Commission found reason to believe that Mr. Eugene McLain ("the Candidate") and Woody Anderson Ford violated 2 U.S.C. § 441b(a) which prohibits accepting and contributing corporate monies in connection with a Federal election.

Mr. McLain received a loan of $30,000 two days after he began reporting with the Federal Election Commission as a candidate for Federal office. The loan was secured by a pledge of anticipated proceeds from a pending sale of real estate owned jointly by the Candidate (25% interest) and Mr. Charles W. Anderson of Woody Anderson Ford (75% interest). The loan was repaid four months later with Mr. McLain's portion of proceeds from the land sale.

Upon notification of the allegations, each respondent spoke by telephone with the General Counsel staff regarding this matter. Within a week, the respondents submitted notorized letters explaining the transaction.

Mr. McLain emphasized that as a realtor, he buys and sells land constantly, relying on borrowed funds from banks, individuals, and corporations in order to obtain cash for business ventures. He asserts that the loan in question is consistent with an established pattern of similar loans from Mr. Anderson. Mr. McLain provided evidence which documents that in at least two prior instances, he secured loans from Mr. Anderson and Woody Anderson Ford with his

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share of anticipated proceeds from sales of jointly-owned land. The Candidate states that while the loan in question was obtained during the campaign, a political contribution was neither mentioned nor intended in connection with this loan. He notes that the loan was repaid with interest.

Mr. Anderson takes a similar stance, stating that he had, from time to time, made loans from his corporate or personal account to Mr. McLain, just before selling portions of their land. Mr. Anderson states that these loans were secured by mortgages or notes, and that interest was paid. He, too, asserts that the loan was not considered a campaign contribution.

While Mr. McLain's established method of doing business by borrowing from Mr. Anderson may be considered mitigating circumstances in this case, the fact remains that a loan of $30,000 drawn on a corporate account was used for four months in connection with Mr. McLain's bid for election to the U. S. House of Representatives.

RECOMMENDATION

1. Find reasonable cause to believe that Mr. Eugene McLain accepted a corporate loan/contribution in violation of 2 U.S.C. § 441b(a).

2. Find reasonable cause to believe that Woody Anderson Ford made a corporate loan/contribution in violation of 2 U.S.C. § 441b (a).

3. Send attached letters and conciliation agreements.

8/10/78
Date

William C. Oldaker
General Counsel

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GENE McLAIN
BETH H McLAIN
BUDDY CHAPMAN
D SCOTT McLAIN
J N MASON

1402-B MEMORIAL PARKWAY NORTH • P.O. BOX 2209 • HUNTSVILLE, ALABAMA 35804
TELEPHONE 205 533-3414

'78 JUL 10 AM 9:51

July 5, 1978

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

Dear Mr. Oldaker: Re: MUR 612

In response to your letter dated June 28, 1978, received in my office on July 5, 1978, and as a supplement to my letter of May 18, 1978, addressed to Ms. Sue Paschen and attached hereto, this is to clarify that the money borrowed was not a political loan and was not designated as such, and, as a matter of fact, politics was not mentioned. The documentation attached to my letter of May 18 to Ms. Paschen is evidence that this loan was consistent with a pattern of borrowing from Woody Anderson and, in this particular case, Woody Anderson Ford, over a period of years, since we have been partners in a particular piece of real estate. In each instance that I have borrowed money from Woody Anderson, we had a sale pending and the loan did not exceed the amount that was forthcoming from the sale.

I have gone over with your staff the current loans I have outstanding with individuals, banks, and corporations, which total several hundred thousand dollars, which illustrates that the amount of money involved in this instance was not a major amount compared to total short-term indebtedness.

I would also point out that interest has been paid in each instance, and that these were arms-length business transactions. I trust the foregoing will satisfactorily explain the circumstances, but, in the event you desire for me to appear in person, I will do so. While this is in the form of a letter, I am going to have it notarized, and I am presenting this under oath.

Sincerely,

Eugene M. McLain

Eugene M. McLain

EMM:cm

cc: Ms. Fran Hagan

STATE OF ALABAMA)
MADISON COUNTY)

Sworn and subscribed before me this 5th day of July, 1978.

Notary Public
My Commission Expires: 10/3/79

Hogan

9JUL 4 0 78

FORD

WOODY ANDERSON FORD

Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

FEDERAL ELECTION COMMISSION

July 5, 1978

'78 JUL 11 PM 2:12

804382

Ms. Fran Hagan
Federal Election Commission
1325 K Street NW
Washington, D. C. 20463

Dear Ms. Hogan:

In reference to your letter of June 28, I would like to state to you that there was no intent on my part to violate any Federal Election laws. As I stated to you over the telephone, from time to time over the last several years I had business dealings with Mr. McLain because he and I are joint owners of a piece of commercial property located in Huntsville, Alabama, on University Drive. I own 75% interest in this property and Mr. McLain owns 25%, which is totally paid for.

Portions of the property have been sold and from time to time I have, as the records will reflect, advanced certain monies to Mr. McLain on the sale of this property while a deal was being closed out. Some of the time there has been a mortgage drawn up to secure these advances and some of the time a note. All of these loans were handled in a business like manner and interest was paid to me at the time of closing of the sale or imediately thereafter.

At the time this loan was made, there was no consideration given to its being a campaign contribution. I sincerely hope that this matter can be resolved without costing me and the tax payers a lot of money. I can truthfully say to you that I instructed Mrs. Hightower, my secretary, to draw up the note and I did not know at the time whether the money was being disbursed out of the company account or out of my personal account.

Yours very truly,

Woody

C. W. Anderson
President

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FORD

WOODY ANDERSON FORD

Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

State of Alabama
County of Madison

Personally appeared before me, Judy Bice, a Notary Public in and for said county and state, C. W. (Woody) Anderson, who is personally known to me and who swears to the truth of the attached statement and has signed said statement of his own free will, this 5th day of July, 1978.

Judy Bice
Notary Public MY COMMISSION EXPIRES 2-22-82

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Eugene M. McLain
Gene McLain Real Estate
1402-B Memorial Parkway North
Box 2209
Huntsville, AL 35804

Re: MUR 612

Dear Mr. McLain:

On August , 1978, the Federal Election Commission found reasonable cause to believe that you violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act by accepting a corporate loan/contribution in connection with your campaign for Federal office.

Please be advised that the Commission has a duty to make every endeavor for a period of not less than 30 days to correct such a violation by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. § 437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. § 437g(a)(5)(B).

Enclosed please find a conciliation agreement which this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of this agreement, please sign it and return it to the Commission within ten days of your receipt of this letter. If not, please contact Fran Hagan at 202-523-4006, to discuss your objections to the agreement.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles W. Anderson
Woody Anderson Ford
516 Washington Street, N.W.
Huntsville, AL 35801

Re: MUR 612

Dear Mr. Anderson:

On August , 1978, the Federal Election Commission found reasonable cause to believe that Woody Anderson Ford violated 2 U.S.C. § 441b(a) of the Federal Election Campaign Act by making a corporate contribution in connection with an election for Federal office.

Please be advised that the Commission has a duty to make every endeavor for a period of not less than 30 days to correct such a violation by informal methods of conference, conciliation and persuasion and to enter into a conciliation agreement. 2 U.S.C. § 437g(a)(5)(A). If we are unable to reach agreement during that period, the Commission may, upon a finding of probable cause to believe a violation has occurred, institute civil suit. 2 U.S.C. § 437g(a)(5)(B).

Enclosed please find a conciliation agreement which this Office is prepared to recommend to the Commission in settlement of this matter. If you agree with the provisions of this agreement, please sign it and return it to the Commission within ten days of your receipt of this letter. If not, please contact Fran Hagan at 202-523-4006 to discuss your objections to the agreement.

Sincerely,

William C. Oldaker
General Counsel

Enclosure

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

July 18, 1978

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

SUBJECT: MUR 612 - Interim Status Report dated 7-10-78
Signed: 7-14-78
Received in Office of Commission
Secretary: 7-17-78, 12:31

The above-mentioned document was circulated on a 24 hour no-objection basis at 3:30 p.m., July 17, 1978.

As of 4:00 p.m. this date, no objections have been received in the Office of Commission Secretary to the Interim Status Report.

Commissioners Aikens, Springer, Staebler, and Thomson returned their papers by the deadline.

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July 17, 1978

MEMORANDUM TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 612

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

Thank you.

7904010294 2

BEFORE THE FEDERAL ELECTION COMMISSION

JULY 10, 1978

In the Matter of	)	
	)	
Mr. Eugene McLain and Woody Anderson Ford	)	MUR 612
	)	

INTERIM STATUS REPORT

During the audit of the McLain Campaign Committee, the Audit Division discovered that on February 11, 1976, Mr. Eugene McLain ("the Candidate") received a loan of $30,000 from Woody Anderson Ford, a corporation. The loan was obtained at the time Mr. McLain began his campaign for Federal office. The Candidate repaid the loan on June 21, 1976.

On June 21, 1978, the Commission found reason to believe that Mr. Eugene McLain and Woody Anderson Ford violated 2 U.S.C. § 441b(a) which prohibits contributing or accepting corporate monies in connection with a Federal election. Letters were sent to so notify Mr. McLain and Mr. Anderson. Upon notification, each respondent telephoned the General Counsel staff. They agreed to provide notorized statements explaining the transaction. We are awaiting these doucments.

7/14/78
Date

William C. Oldaker
General Counsel

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MCA 4098

WOODY ANDERSON FORD

Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

FEDERAL ELECTION COMMISSION

July 5, 1978

'78 JUL 11 PM 2:12

C04382

Ms. Fran Hagan
Federal Election Commission
1325 K Street NW
Washington, D. C. 20463

Dear Ms. Hogan:

In reference to your letter of June 28, I would like to state to you that there was no intent on my part to violate any Federal Election laws. As I stated to you over the telephone, from time to time over the last several years I had business dealings with Mr. McLain because he and I are joint owners of a piece of commercial property located in Huntsville, Alabama, on University Drive. I own 75% interest in this property and Mr. McLain owns 25%, which is totally paid for.

Portions of the property have been sold and from time to time I have, as the records will reflect, advanced certain monies to Mr. McLain on the sale of this property while a deal was being closed out. Some of the time there has been a mortgage drawn up to secure these advances and some of the time a note. All of these loans were handled in a business like manner and interest was paid to me at the time of closing of the sale or imediately thereafter.

At the time this loan was made, there was no consideration given to its being a campaign contribution. I sincerely hope that this matter can be resolved without costing me and the tax payers a lot of money. I can truthfully say to you that I instructed Mrs. Hightower, my secretary, to draw up the note and I did not know at the time whether the money was being disbursed out of the company account or out of my personal account.

Yours very truly,

Woody

C. W. Anderson
President

FORD

WOODY ANDERSON FORD

Telephone 539-9441 516 Washington St. N. W.
HUNTSVILLE, ALA. 35801

State of Alabama
County of Madison

Personally appeared before me, Judy Bice, a Notary Public in and for said county and state, C. W. (Woody) Anderson, who is personally known to me and who swears to the truth of the attached statement and has signed said statement of his own free will, this 5th day of July, 1978.

Judy Bice

Notary Public MY COMMISSION EXPIRES 2-22-82

FORD

WOODY ANDERSON
516 Washington St. N.W.
Phone 539-9441
HUNTSVILLE, ALABAMA 35801

JUL 2 12

CERTIFIED
No.
MAIL

Ms. Fran Hagan
Federal Election Commission
1325 K Street N.W.
Washington, D. C. 20463

GENE McLAIN
BETH H. McLAIN
BUDDY CHAPMAN
D. SCOTT McLAIN
J. N. MASON

GM GENE McLAIN Real Estate

RECEIVED
FEDERAL ELECTION COMMISSION

1402-B MEMORIAL PARKWAY, NORTH • P.O. BOX 2209 • HUNTSVILLE, ALABAMA 35804
TELEPHONE 205/533-3414

'78 JUL 10 AM 9:52

July 5, 1978

894317

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

Dear Mr. Oldaker: Re: MUR 612

In response to your letter dated June 28, 1978, received in my office on July 5, 1978, and as a supplement to my letter of May 18, 1978, addressed to Ms. Sue Paschen and attached hereto, this is to clarify that the money borrowed was not a political loan and was not designated as such, and, as a matter of fact, politics was not mentioned. The documentation attached to my letter of May 18 to Ms. Paschen is evidence that this loan was consistent with a pattern of borrowing from Woody Anderson and, in this particular case, Woody Anderson Ford, over a period of years, since we have been partners in a particular piece of real estate. In each instance that I have borrowed money from Woody Anderson, we had a sale pending and the loan did not exceed the amount that was forthcoming from the sale.

I have gone over with your staff the current loans I have outstanding with individuals, banks, and corporations, which total several hundred thousand dollars, which illustrates that the amount of money involved in this instance was not a major amount compared to total short-term indebtedness.

I would also point out that interest has been paid in each instance, and that these were arms-length business transactions. I trust the foregoing will satisfactorily explain the circumstances, but, in the event you desire for me to appear in person, I will do so. While this is in the form of a letter, I am going to have it notarized, and I am presenting this under oath.

Sincerely,

Eugene M. McLain

Eugene M. McLain

EMM:cm

cc: Ms. Fran Hagan

STATE OF ALABAMA)
MADISON COUNTY)

Sworn and subscribed before me this 5th day of July, 1978.

Carolyn Martin
Notary Public
My Commission Expires: 10/3/79

GENE McLAIN
BETH H McLAIN
BUDDY CHAPMAN
D SCOTT McLAIN
J N MASON

GENE McLAIN Real Estate

1402-B MEMORIAL PARKWAY NORTH • P.O. BOX 2209 • HUNTSVILLE ALABAMA 35804
TELEPHONE 205/533-3414

May 18, 1978

Ms. Sue Paschen
Audit Division
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Ms. Paschen:

In explanation of the loan to me on the 11th day of February, 1976, by Woody Anderson Ford, this is to advise that Mr. Anderson and I owned a piece of property together in which his ownership was 75% and mine was 25%.

Several times when we had a sales contract, I would borrow from Mr. Anderson or Woody Anderson Ford, the money that was coming to me. I enclose what documentation we have on three such transactions.

In the case of the Moore-Handley transaction, there was a property exchange between Mr. Anderson and Woody Anderson Ford, which gave Woody Anderson Ford a legitimate interest in the matter. I did not go to Mr. Anderson or Woody Anderson Ford to procure a political loan. I asked for money that was coming to me and for which they had security. It was treated by Mr. Anderson on the same basis as in the past.

I considered that I was providing additional consideration because in the instances where the sale was made direct without a commission, I did not charge Mr. Anderson a commission.

I trust this will clarify the matter.

Sincerely,

Gene McLain

EMM:cm

Enclosures

7904010294 9

Gene McLain REAL ESTATE

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

RECEIVED
FEDERAL ELECTION COMMISSION
'78 JUL 10 AM 9:51

FEDERAL ELECTION COMMISSION

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

June 28, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Eugene M. McLain
Gene McLain Real Estate
1402-B Memorial Parkway North
Box 2209
Huntsville, AL 35804

Re: MUR 612

Dear Mr. McLain:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that you may have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically it appears that you accepted a corporate contribution in the form of a loan of $30,000 from Woody Anderson Ford. Receipt of a corporate contribution in connection with a federal election places you in violation of 2 U.S.C. § 441b(a). We have numbered this matter MUR 612.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials not already submitted to the Audit Division which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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

This matter will remain confidential until resolved in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Ms. Fran Hagan, the staff member assigned to this matter, at 202-523-4006.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

Hagan MUR 612

PS Form 3811, Apr. 1977

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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

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

2. ARTICLE ADDRESSED TO:
Eugene M. McLean
Gene McLean Real Estate
402-B Memorial Pkwy North
Huntsville, Ala. 35801

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	98404	

(Always obtain signature of addressee or agent)

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

4. Claudia Fulgermann
DATE OF DELIVERY

POSTMARK: HUNTSVILLE JUL 5 1978 ALA.

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO : 1977—O-234-337

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

June 28, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles W. Anderson
Woody Anderson Ford
516 Washington Street, N.W.
Huntsville, AL 35801

Re: MUR 612

Dear Mr. Anderson:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that Woody Anderson Ford may have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically it appears that Woody Anderson Ford made a loan to Mr. Eugene M. McLain, a candidate for Federal office, in violation of 2 U.S.C. § 441b(a), which prohibits corporate contributions in connection with a Federal election. We have numbered this matter MUR 612.

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. Where appropriate, statements should be submitted under oath.

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

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If you have any questions, please contact Ms. Fran Hagan, the staff member assigned to this matter, at 202-523-4006.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

cc: Mr. Eugene M. McLain

Hagan MUR 612

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

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

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

2. ARTICLE ADDRESSED TO:
Charles W. Anderson
Woody Anderson Ford
516 Washington St. NW
Huntsville Ala. 35801

3. ARTICLE DESCRIPTION:
REGISTERED NO. | CERTIFIED NO. 943453 | INSURED NO.

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY 7/3/79 | POSTMARK

5. ADDRESS (Complete only if requested)
516 Washington St. NW
Huntsville, Al. 35801

6. UNABLE TO DELIVER BECAUSE: | CLERK'S INITIALS

☆ GPO : 1977—O-234-337

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

June 19, 1978

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

SUBJECT: OBJECTIONS

The following documents circulated on a 48 hour vote basis at 2:00 p.m., June 19, 1978, have received objections and should be placed on AMENDED AGENDA II to be prepared by your office:

MUR 605 - First General Counsel's Report dated 6-16-78

MUR 609 - First General Counsel's Report dated 6-16-78

MUR 612 - First General Counsel's Report dated 6-16-78

7 9 0 4 0 1 0 2 9 5 4

6/19/78

MEMORANDUM: TO: Marge Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 612

Please have the attached First GC report on MUR 612 distributed to the Commission on a 48 hour tally basis.

Thank you.

7904010295 5

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Mr. Eugene McLain)
Woody Anderson Ford)

MUR 612 (78)

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 6-0 to take the following actions in the above-captioned matter:

1. Find reason to believe that Mr. Eugene McLain violated 2 U.S.C. Section 441b(a), and to so notify Mr. McLain.

2. Find reason to believe that Woody Anderson Ford violated 2 U.S.C. Section 441b(a), and to so notify Mr. Ford.

Attest:

Date 6/23/78

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

First General Counsel's Report circulated by Commission Secretary on 48-hour vote basis at 2:00 p.m. on June 19, 1978.

Objection file, and General Counsel notified on June 19, 1978.

Meeting agenda for June 21, 1978.

FEDERAL ELECTION COMMISSION

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL
BY OGC TO COMMISSION _____

MUR NO. 612
STAFF MEMBER(S) _____
Weissenborn/Hagan

SOURCE OF MUR: INTERNALLY GENERATED

RESPONDENT'S NAME: Mr. Eugene McLain
Woody Anderson Ford

RELEVANT STATUTE: 2 U.S.C. §441a(a)(1)(A)
2 U.S.C. §441b(a)
2 U.S.C. §441a(f)

INTERNAL REPORTS CHECKED:

FEDERAL AGENCIES CHECKED: none

GENERATION OF MATTER

This matter was referred to the Office of General Counsel by the Audit Division as a result of a random audit of the McLain Campaign Committee.

SUMMARY OF ALLEGATIONS

The audit of the McLain Campaign Committee revealed that 1) Woody Anderson Ford, an automobile dealership, made a contribution in loan form in excess of $1000 to Mr. Eugene McLain ("the Candidate") in apparent violation of 2 U.S.C. §441a(a)(1)(A), 2) Woody Anderson Ford, a corporate entity, violated 2 U.S.C. §441b(a) by making a loan/contribution to the Candidate, and 3) Mr. Eugene McLain accepted the corporate contribution from Woody Anderson Ford in violation of 2 U.S.C. §441b(a) and §441a(f).

PRELIMINARY LEGAL ANALYSIS

2 U.S.C. §441b(a) prohibits "any corporation...to make a contribution or expenditure in connection with any election to any political office... or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section..."

2 U.S.C. §441a(a)(1)(A) prohibits anyone from making contributions "to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1000."

On February 11, 1976, Mr. Eugene McLain received a loan of $30,000 from Woody Anderson Ford, an incorporated automobile dealership. The transaction occurred two days after Mr. McLain began reporting with the Federal Election Commission as a candidate for Federal office. The loan with interest was made payable on demand, and was secured by a pledge of anticipated proceeds from the sale of real estate owned jointly by the Candidate (25% interest) and Mr. Charles W. Anderson of Woody Anderson Ford (75% interest). Mr. McLain repaid the loan on June 21, 1976.

RECOMMENDATION

1. Find reason to believe that Mr. Eugene McLain violated 2 U.S.C. §441b(a) and 2 U.S.C. §441a(f).

2. Find reason to believe that Woody Anderson Ford violated 2 U.S.C. §441b(a) and 2 U.S.C. §441a(a)(1)(A).

3. Send attached letters.

Gross A. 2108

MUR 612

FEDERAL ELECTION COMMISSION

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

June 2, 1978

MEMORANDUM

TO: BILL OLDAKER

THROUGH: ORLANDO B. POTTER OBP.
STAFF DIRECTOR

FROM: RC BOB COSTA/SUE PASCHEN REH

SUBJECT: EUGENE MCLAIN, MCLAIN CAMPAIGN COMMITTEE - CORPORATE CONTRIBUTIONS

Eugene Mclain, per our request filed candidate reports disclosing the extinguishment of campaign debts for which he was personally obligated. Mr. McLain itemized the repayment of a $30,000.00 loan dated February 11, 1976 to Woody Anderson Ford. He further disclosed that the loan was a signature note from himself to Woody Anderson Ford, payable on demand, with interest at 10% per annum and that the loan was secured by a verbal pledge of future proceeds from the sale of personal real estate owned by himself.

It was determined through conversations with the Secretary of State of Alabama that Woody Anderson Ford is a corporate entity. The date of incorporation is February 18, 1957. Further information obtained from the Secretary of State is that the company changed its name on August 12, 1966 from Woody Anderson Motor Company, Inc., to Woody Anderson Ford.

Due to the dollar value of the loan it appears that the Candidate/Committee has accepted a contribution in excess of the limitation established by Section 441a(a)(1) and the contribution was apparently accepted from a corporation in violation of Section 441b(a) of Title 2, United States Code.

However, Mr. McLain explained that he believed that circumstances exist by which the loan was neither in violation of Section 441a(a)(1) nor 441b(a). Mr. McLain stated that he and Mr. ~~James~~ Anderson of Woody Anderson Ford own real estate in a 25%/75% ratio, of which they are selling portions. He further stated that upon the closing of a sales contract, he would borrow the expected proceeds from either Mr. Anderson or Woody Anderson Ford. He stated that in the past few years he has established a pattern of the above practice.

Charles W.

Because of the practice of borrowing the expected proceeds just prior to a sale of the land Mr. McLain believes that the funds received were technically his funds. Please note the attached documents provided by Mr. McLain to document his statement.

We recommend that you consider the matter discussed above as a MUR.

Should you have any questions, please contact Sue Paschen or Bob Hamm on extension 3-4155.

PROMISSORY NOTE

$ 30,000.00 Huntsville, Ala., February 11, 1976

FOR VALUE RECEIVED, the undersigned, jointly and severally, if more than one, promise to pay to the order of WOODY ANDERSON FORD

the sum of THIRTY THOUSAND AND NO/100 ($30,000.00) Dollars

with interest thereon from date at the rate of TEN (10%) % per annum, in lawful legal tender of the United States of America, at

or such other place as the holder hereof may from time to time designate in writing, payable ON DEMAND

The principal sum and all instalments thereof, after maturity, and all overdue interest, shall bear interest at 8% per annum.

If default be made in the payment of any instalment of principal or interest, or in the performance of any of the covenants or agreements contained in that certain mortgage given to secure the payment hereof, then, at the option of the holder hereof and without notice to any one, the entire unpaid principal of this note with interest thereon shall become due and payable and may be collected in the same manner as if the full time provided in this note had expired, but the failure of the holder hereof to exercise said option shall not constitute a waiver of the right of the holder later to do so.

Each party to this instrument, whether maker, co-maker, endorser, surety, or guarantor: (a) waives as to this debt and all renewals thereof all rights of exemption as to personal property; (b) agrees to pay all cost of collecting or securing, or attempting to collect or secure, this debt, or in protecting the lien of the security, either by suit or otherwise, including a reasonable attorney's fee whether suit is brought or not; (c) waives grace, demand, presentment, protest, notice of protest or any other requirement necessary to hold the parties hereto or any of them; (d) agrees that the time of payment may be extended from time to time without notice and that all parties not joining or consenting to any extension or renewal shall remain liable for this debt and the interest thereon as though they had joined or consented to such extension or renewal.

This note is given, executed and delivered under the seal of the undersigned.

Paid
6-21-76
Woody Anderson Ford
M. Stephens

Eugene N. McLain (L. S.)

(L. S.)

(L. S.)

Interest Due $ [illegible]

GENE McLAIN
BETTY H McLAIN
BUDDY CHAPMAN
D SCOTT McLAIN
J N MASON

803151

GENE McLAIN
Real Estate

1402-B MEMORIAL PARKWAY NORTH • P.O. BOX 7309 • HUNTSVILLE, ALABAMA 35804
TELEPHONE 205/539-3

FEDERAL ELECTION COMMISSION
78 MAY 30 PM 9:47

May 18, 1978

Ms. Sue Paschen
Audit Division
Federal Election Commission
1325 K Street N.W.
Washington, D.C. 20463

Dear Ms. Paschen:

In explanation of the loan to me on the 11th day of February, 1976, by Woody Anderson Ford, this is to advise that Mr. Anderson and I owned a piece of property together in which his ownership was 75% and mine was 25%.

Several times when we had a sales contract, I would borrow from Mr. Anderson or Woody Anderson Ford, the money that was coming to me. I enclose what documentation we have on three such transactions.

In the case of the Moore-Handley transaction, there was a property exchange between Mr. Anderson and Woody Anderson Ford, which gave Woody Anderson Ford a legitimate interest in the matter. I did not go to Mr. Anderson or Woody Anderson Ford to procure a political loan. I asked for money that was coming to me and for which they had security. It was treated by Mr. Anderson on the same basis as in the past.

I considered that I was providing additional consideration because in the instances where the sale was made direct without a commission, I did not charge Mr. Anderson a commission.

I trust this will clarify the matter.

Sincerely,

Gene McLain

Gene McLain

EMM:cm

Enclosures

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Eugene M. McLain
Gene McLain Real Estate
1402-B Memorial Parkway North
Box 2209
Huntsville, Ala. 35804

RE: MUR 612

Dear Mr. McLain:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that you may have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically it appears that you accepted a corporate contribution in the form of a loan of $30,000 from Woody Anderson Ford. Receipt of a corporate contribution in connection with a federal election places you in violation of 2 U.S.C. §441b(a). In addition, you are in apparent violation of 2 U.S.C. §441a(f) which prohibits the acceptance of contributions in excess of $1000. We have numbered this matter MUR 612.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. Please submit any factual or legal materials not already submitted to the Audit Division which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath.

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

This matter will remain confidential until resolved in accordance with 2 U.S.C. Section 437g(a)(3)(B) unless you notify the Commission in writing that you wish the investigation to be made public.

If you have any questions, please contact Ms. Fran Hagan, the staff member assigned to this matter, at 202-523-4006.

If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Charles W. Anderson
Woody Anderson Ford
516 Washington Street, N.W.
Huntsville, Ala. 35801

RE: MUR 612

Dear Mr. Anderson:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission has found reason to believe that Woody Anderson Ford may have violated certain provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). Specifically it appears that Woody Anderson Ford made a loan in excess of contribution limitations to Mr. Eugene M. McLain, a candidate for Federal office, in violation of 2 U.S.C. §441a(a)(1)(A), and also violated 2 U.S.C. §441b(a), which prohibits corporate contributions in connection with a Federal election. We have numbered this matter MUR 612.

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. Where appropriate, statements should be submitted under oath.

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If you intend to be represented by counsel in this matter, please have such counsel so notify us in writing.

Sincerely,

William C. Oldaker
General Counsel

cc: Mr. Eugene M. McLain

A-2108
MUR602

FEDERAL ELECTION COMMISSION

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

June 2, 1978

MEMORANDUM

TO: BILL OLDAKER

THROUGH: ORLANDO B. POTTER OBP
STAFF DIRECTOR

FROM: RC BOB COSTA/SUE PASCHEN REH

SUBJECT: EUGENE MCLAIN, MCLAIN CAMPAIGN COMMITTEE - CORPORATE CONTRIBUTIONS

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GENE McLAIN
BETH H McLAIN
BUDDY CHAPMAN
D. SCOTT McLAIN
J. N. MASON

803151

1402-B MEMORIAL PARKWAY, NORTH • P.O. BOX 7309 • HUNTSVILLE, ALABAMA 35804
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Sincerely,

Gene McLain

Gene McLain

EMM:cm

Enclosures

FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 612

Date Filmed 2/27/79 Camera No. --- 2

Cameraman GPC