



FEDERAL ELECTION COMMISSION

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

THIS IS THE END OF MUR # 693

DATE: 10/5/78

FILMED BY: YMB



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Burton W. Hales, Jr.) MUR 693
Dan Hales for Congress)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on September 13, 1978, the Commission, by vote of 5-0, adopted the recommendations of the General Counsel as set forth in the First General Counsel's Report in this matter, as follows:

1. Found no reason to believe that Burton W. Hales, Jr., violated Section 441a(a)(1)(A) of the FECA.
2. Found no reason to believe that Dan Hales for Congress violated Section 441a(f) of the FECA.
3. Closed its file in this matter.

Voting for these determinations were Commissioners Harris, Springer, Staebler Thomson. and Tiernan.

9/14/78

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

78040070205

Received in Office of Commission Secretary
Circulated on 48 hour vote basis

9-8-78, 5:07
9-11-78, 4:00

September 8, 1978

MEMORANDUM TO: Marge Emons
FROM: Elissa T. Garr
SUBJECT: MUR 693

Please have the attached First General Counsel's Report on MUR 693 distributed to the Commission on a 48 hour tally basis.

Thank you.

78040070206

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

FIRST GENERAL COUNSEL'S REPORT

DATE AND TIME OF TRANSMITTAL SEP 8 1978
BY OGC TO THE COMMISSION

MUR NO. 693
DATE COMPLAINT RECEIVED
BY OGC
STAFF
MEMBER Convery

SOURCE:

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

RESPONDENT'S NAME:

1. Dan Hales for Congress
2. Burton W. Hales, Jr.

RELEVANT STATUTE:

1. 2 U.S.C. §441a (f)
2. 2 U.S.C. §441a (a) (1) (A)

INTERNAL REPORTS CHECKED:

Reports of Receipts and Expenditures

FEDERAL AGENCIES CHECKED:

None

GENERATION OF MATTER

This matter was forwarded to the Office of General Counsel by memo dated August 23, 1978, from the Reports Analysis Division. (See Attachment I).

ALLEGATION

Burton W. Hales, Jr., whose brother was a candidate for nomination to the U.S. House of Representatives, made excessive campaign contributions, in violation of 2 U.S.C. §441a(a)(1)(A).

Dan Hales for Congress (the "Committee") the principal campaign committee, knowingly accepted the excessive contributions in violation of 2 U.S.C. §441a(f).

BACKGROUND

In 1976, Daniel B. Hales was a candidate in a single election, the March 16 Illinois primary.

The July 10 Report of Receipts and Expenditures filed by the Committee reflected that Burton W. Hales, Jr., had made a loan of \$2,500 on June 10, 1976.^{1/}

The entry reflecting this loan was repeated on subsequent reports filed by the Committee (with the exception of the April 10 and July 10, 1977, reports which were made on FEC Form 3A postcards).

Prompted by the entry which appeared on the 1977 year end report, the Commission questioned the June 10, 1976 loan by way of a "surface violation letter" dated April 3, 1978. (Attachment 3 to RAD Memo).

In his response to that inquiry, (Attachment 4 to RAD Memo), the Committee Treasurer advised essentially as follows:^{2/}

"On February 17, 1976, the Committee borrowed \$10,000 from the Northern Trust Company of Chicago. Daniel B. Hales, the candidate, and Burton W. Hales, Jr., his brother, guaranteed the loan.

"On June 10, 1976, the balance due the bank was \$5,000. Since the Committee did not have enough cash to repay the loan, the co-guarantors paid the bank \$2,500 each. Their repayment to the bank was itself treated as a loan to the Committee."

"During the first quarter of 1978, the Committee received a refund which enabled it to make partial repayment to the co-guarantors, thus reducing to \$1,712 the obligation owed to each of them on account of the Northern Trust Company transaction."

DISCUSSION

A. Applicable Law:

2 U.S.C. §441a(a)(1)(A) provides that "No person shall make contributions to any candidate and his authorized committee with respect to any election for Federal office which, in the aggregate, exceed \$1,000."

^{1/} Burton Hales is also listed as having made a loan of \$3,000 on January 22, 1976. At that time, the U.S. Court of Appeals and the Commission were interpreting certain provisions of the 1974 Amendments as relaxing the \$1,000 per election contribution limitation for immediate family members. Therefore, this report will not deal with the January 22, loan.

^{2/} In a letter he wrote to the Commission on September 1, 1977, Burton Hales set forth these same facts. See Attachment 9 to RAD memo.

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The law was not always such. Prior to January 30, 1976, the date of the Supreme Court's decision in Buckley v. Valeo, 424 U.S. 1, immediate family members could contribute not in excess of \$25,000 to a related candidate for Federal office;^{3/} after May 11, 1976, immediate family members were limited by the 1976 Amendments to contributing \$1,000 per election.

Noting that during the period between January 30, 1976, and May 11, 1976 the law regarding family member contributions was "sufficiently unclear," the Commission, in an October 1, 1976, Policy Statement, declared that it would not require refund of any such contribution in excess of \$1,000 per election, so long as it was within the donor's \$25,000 annual contribution limitation. (In this regard see Advisory Opinions 1976-26 and 1977-15).

B. The Date of the Burton Hales Contribution:

The 1974 Amendments to the Act, which were in effect at the time of the Northern Trust Company loan to the Committee, included loans within the definition of contributions.

Further, from as early as August, 1975, the Commission considered the term "loan" to include a guarantee to a bank loan. See draft of Proposed Regulation §100.4(a)(1)(i)(C), as forwarded to the Commission August 4, 1975. See also Notice 1975-51, F.R. Vol. 40, No. 189, Monday, September 29, 1975, and Proposed Regulation §100.4(a)(1)(i), as forwarded to Congress December 3, 1975.

In light of the above definitions, we believe that the essential transaction took place on February 27, 1976, when Burton W. Hales, Jr., guaranteed the Northern Trust Company loan, and not on June 10, 1976, when he paid \$2,500 to that Bank.

CONCLUSION

Since the essential transaction took place during the period of time in which the law concerning family member contributions was "unclear," Burton Hales did not violate the Act in making his contribution and the Committee did not violate the Act in accepting it.

RECOMMENDATION

Find no reason to believe that Burton W. Hales, Jr., violated Section 441a(a)(1)(A), and no reason to believe that Dan Hales for Congress violated Section 441a(f) of the Act. Close the file in this matter.

^{3/} See Buckley v. Valeo, 510 F.2d 821, 854 (1975) and FEC Advisory Opinion 1975-65 (40 F.R. 58393, December 16, 1975).

Attachments

- I. Memo from RAD, 23 August 1978, with Attachments 1-12.

REPORTS ANALYSIS REFERRAL SHEET

DATE August 23, 1978 ANALYST Mike Filler
 TO: OFFICE OF GENERAL COUNSEL TEAM CHIEF Peter Kell, Jr.
 THROUGH: STAFF DIRECTOR B.L. for O.B.P. COMPLIANCE REVIEW Albaven
 FROM: ASSISTANT STAFF DIRECTOR FOR REPORTS ANALYSIS JH

CANDIDATE/COMMITTEE: DAN HALES FOR CONGRESS-C00026146

TREASURER: F. Chaloner McNair

ADDRESS: 11 South LaSalle St., Room 1211
Chicago, Illinois 60603

AFFILIATE(S):
None

ALLEGATION(S):	CITE:	ATTACHMENT(S)
Apparent excessive loan by individual	2 U.S.C.441a(a)	2

MANNER IN WHICH REVIEW WAS INITIATED if other than normal review, AND DATE:

Surface violation transmittal prepared on Feb. 2, 1978. ATTACHMENT

REPORTS: All reports within the dates listed below have received initial basic review. For all reports reviewed, see Attachment 1.

PERIOD COVERED FROM October 1, 1977 TO December 31, 1977

TOTAL RECEIPTS \$ -0- TOTAL EXPENDITURES \$ -0-

CASH ON HAND \$ 530.36 DEBTS \$ 12,000

HISTORY:

RESULTS OF REVIEW: S.V. letter sent on April 3, 1978. ATTACHMENT(s) 3,4
 Response received on April 14, 1978, stating that the excessive loan by Burton Hales, brother of the candidate, was his personal payment to the bank on a loan which he and the candidate endorsed for the cmte. The \$5,000 endorsement by Burton Hales was made prior to
 COMMUNICATIONS WITH CANDIDATE/COMMITTEE: ATTACHMENT May 11, '76

None.

REASON(S) FOR REFERRAL: ATTACHMENT
 See PAGE TWO of REFERRAL. 5

OTHER PENDING ACTIONS INITIATED BY RAD: ATTACHMENT
 None.

OTHER RELEVANT INFORMATION:
 See PAGE THREE of REFERRAL. 6,7,8,9,10,11 & 12

PREVIOUS OGC/AUDIT REFERRALS:
 None Attachment 1

REPORTS ANALYSIS REFERRAL SHEET

DAN HALES FOR CONGRESS

REASON(S) FOR REFERRAL:

Attachment

A \$10,000 bank loan (\$5,000 endorsed by the candidate; \$5,000 endorsed by Burton Hales, brother of the candidate) was obtained by the committee prior to May 11, 1976 (loan obtained on February 17, 1976).

The Commission policy stated that "between January 30 and May 11, 1976, the law was sufficiently unclear that the Commission will not require refund of any contribution in excess of \$1,000 per election, so long as it was within the donor's \$25,000 annual contribution limit." However, on June 10, 1976, nearly one month after May 11, 1976, a balance of \$5,000 was due on the bank loan; Burton Hales personally loaned the committee \$2,500 to pay off his part of the endorsed loan.

The committee requested guidance on the excessive loans made by members of the "immediate family" on two occasions. Brad Litchfield responded that a copy of the loan agreement would be necessary and that a formal advisory opinion should be requested. However, the committee never requested an A.O.

It appears that the \$2,500 personal loan made by Burton Hales on June 16, 1976 may be a violation of 2 U.S.C.441a(a).

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REPORTS ANALYSIS REFERRAL SHEET

DAN HALES FOR CONGRESS

OTHER RELEVANT INFORMATION:

Attachment

7 3 0 4 0 0 7 0 2 1 2	<p>On September 13, 1976, the committee sent a letter to the Commission requesting guidance on a matter concerning excessive loans made by members of the "immediate family". 6</p> <p>Kent Cooper responded to the request on October 6, 1976, referring the committee to a Commission policy statement and an advisory opinion on the subject of contributions by members of the "immediate family". 7</p> <p>On August 31, 1977, the committee requested an opinion from the Office of General Counsel regarding the transfer of funds from the candidate's '78 PCC to the '76 PCC to extinguish debts outstanding from the '76 campaign. 8</p> <p>On September 1, 1977, the committee requested guidance from OGC regarding forgiveness of excessive loans made by members of the "immediate family". 9</p> <p>On September 7, 1977, Brad Litchfield from the Office of General Counsel requested that the Reports Analysis Division review the reports filed by the Dan Hales for Congress Committee. Information was needed by OGC in order to respond to the committee's requests of August 31, 1977 and September 1, 1977. The findings of the Reports Analysis Division were forwarded to OGC on September 9, 1977. 10</p> <p>Brad Litchfield responded to the committee's requests on October 20, 1977. He stated that the Commission could not comment on the question of transfers between committees because of it being a hypothetical situation. In addition, a formal request for an advisory opinion would have to be submitted in order to comment on the question of excessive loans made by members of the "immediate family". 11</p> <p>The committee is attempting to terminate on the July 10 Report, stating that the outstanding loans are being forgiven. 12</p>
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7 8 0 4 0 0 7 0 2 1 3

DATE - 10/18/70

Not yet reviewed

-TERMINATED

EXHIBITS

COVERAGE DATES

OF PAGES

EXHIBIT #

EXHIBIT #

COVERAGE DATES

EXHIBIT #

Schedule C

July 1976
Federal Election Commission
1125 N. Street, N.W.
Washington, D.C. 20542

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

Page 1 of 1 for

LINE NUMBER 27

(Use separate schedules for each numbered line)

(See instructions on back)

7301097
0245

Name of Candidate or Committee in full		Amount of Original Debt, Contract, Agreement, or Promise	Cumulative Payment To Date	Outstanding Balance as of 12/31
DAN HALES FOR CONGRESS				
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	\$	\$	\$
Mr. Barton W. Hales, Jr. 415 Hancez Road Kenilworth, Illinois 60043 General operating loan	01-22-76 06-10-76	3,000.00 2,500.00	0.00 0.00	3,000.00 2,500.00
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	\$	\$	\$
Mr. Daniel B. Hales 100 Apple Tree Road Winnetka, Illinois 60093 General operating loan	03-22-76 06-10-76	3,000.00 2,500.00	0.00 0.00	3,000.00 2,500.00
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	\$	\$	\$
Mrs. Marion J. Hales 11400 Tower Road Winnetka, Illinois 60093 General operating loan	03-22-76	3,000.00	2,000.00	1,000.00
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	\$	\$	\$
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	\$	\$	\$
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	\$	\$	\$
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	\$	\$	\$
Full Name, mailing address and ZIP code, and nature of obligation	Date (month, day, year)	\$	\$	\$
Subtotal this period (this page) (optional)		\$ 14,000.00	\$ 2,000.00	\$ 12,000.00
Total this period (last page this line number only)		\$ 14,000.00	\$ 2,000.00	\$ 12,000.00
Carry over from the last page only. Do not include line of summary				

Schedule A
January 1975
Federal Election Commission
1203 N Street, N.W.
Washington, D.C. 20543

Contributions, Voluntary Campaign Loans,
and Refunds for Candidates
(Numbers 15, 16, 17 and/or 18 of FEG Form 3
(see instructions on back))

Page 1 of 1
Form number 36(a)

(Use separate schedule for each numbered line.)

Name of Candidate or Committee in full

DAN HALEY FOR CONGRESS

Full name, mailing address and ZIP code

Illinois Bell Telephone Co.
8930 Maukogan Road
Morton Grove, Illinois 60053

Date (month, day, year)

Amount of each receipt this period

04-29-76

200.00

04-29-76

200.00

04-29-76

1,000.00

04-29-76

300.00

04-29-76

100.00

Principal place of business

Occupation

Check if Contributor is self-employed

Appropriate Year-to-Date

Full name, mailing address and ZIP code

Burton W. Hales, Jr.
415 Essex Road
Northworth, Illinois 60063

Date (month, day, year)

Amount of each receipt this period

06-10-76

2,500.00

Principal place of business

Occupation

Asset Manager

Check if Contributor is self-employed

Appropriate Year-to-Date

Full name, mailing address and ZIP code

Daniel B. Hales
110 Apple Tree Road
Winnetka, Illinois 60093

Date (month, day, year)

Amount of each receipt this period

05-10-76

2,500.00

Principal place of business

Occupation

Attorney

Check if Contributor is self-employed

Appropriate Year-to-Date

Full name, mailing address and ZIP code

~~Full name, mailing address and ZIP code~~

~~Date (month, day, year)~~

~~Amount of each receipt this period~~

~~Principal place of business~~

~~Occupation~~

~~Check if Contributor is self-employed~~

~~Appropriate Year-to-Date~~

Full name, mailing address and ZIP code

Date (month, day, year)

Amount of each receipt this period

Principal place of business

Occupation

Check if Contributor is self-employed

Appropriate Year-to-Date

Full name, mailing address and ZIP code

Date (month, day, year)

Amount of each receipt this period

Principal place of business

Occupation

Check if Contributor is self-employed

Appropriate Year-to-Date

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76011010306



FEDERAL ELECTION COMMISSION

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

F. Chaloner McNair, Treasurer
Dan Hales for Congress
11 South LaSalle Street, Rm. 1211
Chicago, Illinois 60603

Dear Mr. McNair:

This letter is prompted by the Commission's interest in assisting candidates and committees who wish to comply with the Federal Election Campaign Act, as amended. During review of the Year End Report of Receipts and Expenditures, we noticed entries indicating that you may have received contributions which exceed the limits set forth in the Act. A copy of that portion of your report is attached so that a review of your records can be made.

The Act precludes individuals from making political contributions to a candidate for Federal election in excess of \$1,000 per election.

The Commission recommends that if you find the contributions you received were in excess of the limits set forth in the Act you return the amounts in excess of \$1,000 to the donor. This return should be reported immediately by letter and should be reflected as contribution refunds on your next reports of receipts and expenditures. If you find that the entries in question are incomplete or incorrect, please submit a statement which would clarify these particular matters for the public record. You may do so by amending your original report by letter.

Please notify the Commission within ten (10) days of receipt of this letter of the determination made on these matters. If you have any questions concerning these matters, please do not hesitate to contact Lorrie Castaneda (800)424-9530, our Reports Analyst assigned to you. Our local telephone number is 523-4048.

Sincerely,

Orlando B. Potter
Staff Director

78040070216

3 Amended
YE

REGULAR MAIL

APR 10 1978

DAN HALES FOR CONGRESS
11 South LaSalle Street
Chicago, Illinois 60603

1978 APR 14 PM 12:29

U.S. HOUSE OF REPRESENTATIVES
APR 11 3 04 PM '78

0500 26146
07005

Mr. Orlando B. Potter
Staff Director
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: 45V1/7H-17LC

Dear Mr. Potter:

This letter is being written in reply to your April 3rd letter regarding contributions to a candidate for Federal election in excess of \$1,000 per election.

Mr. Daniel B. Hales was a qualified candidate in the Illinois primary election that was held on March 16, 1976, an election which he did not win. It became necessary, during the campaign, to borrow funds to meet certain obligations. The following is a list of the outstanding loans to the DAN HALES FOR CONGRESS committee as of December 31, 1977.

Original Loan Date	Amount	Lender
01-22-76	\$3,000	Burton W. Hales, Jr., brother of the candidate.
02-17-76	\$5,000	The Northern Trust Company, Chicago, Illinois. (This loan was guaranteed by Burton W. Hales, Jr., the brother of the candidate, and Daniel B. Hales, the candidate).
03-22-76	\$3,000	Daniel B. Hales, the candidate.
03-22-76	\$1,000	Marion J. Hales, the mother of the candidate.

Regarding the \$5,000 loan showing an original loan date of 02-17-76, it should be noted that on that date, the campaign committee borrowed \$10,000 from the Chicago bank with Burton W. Hales, Jr. and Daniel B. Hales guaranteeing the loan. One June 10, 1976, there was a balance due the bank of \$5,000 which was then the unpaid balance of the loan. On June 10, 1976, Burton W. Hales, Jr. and Daniel B. Hales each paid the bank \$2,500 as guarantors of the loan because the campaign committee had not enough cash to pay same.

We now refer you to Schedule C of FEC Form #3 that was filed by the DAN HALES

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Mr. Orlando B. Potter
April 10, 1978
Page #2

APR 10 1978 1:17

FOR CONGRESS committee as of March 31, 1978. This shows the following list of outstanding loans to the DAN HALES FOR CONGRESS committee as of that date.

Recorded Loan Date	Amount	Lender
01-22-76	\$3,000	Burton W. Hales, Jr., brother of the candidate.
06-10-76	\$1,712	Burton W. Hales, Jr., brother of the candidate.
03-22-76	\$3,000	Daniel B. Hales, the candidate.
06-10-76	\$1,712	Daniel B. Hales, the candidate.

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During the first quarter of 1978, \$2,045.32 was recovered from a firm that had received an overpayment during the 1976 primary election campaign. When this amount was added to the then cash balance of \$530.36, there was sufficient cash to repay the \$1,000 outstanding loan of Marion J. Hales, mother of the candidate, and to repay \$787.84 to Burton W. Hales, Jr. and to Daniel B. Hales. The cash balance of the DAN HALES FOR CONGRESS committee was thus brought to zero.

The lenders, Burton W. Hales, Jr. and Daniel B. Hales intend to forgive the balance of the debt owed to them. It is our opinion that such forgiveness will not violate the election laws since the loans were made prior to May 11, 1976. In other words, it is our opinion that a brother is a member of a candidate's "immediate family" as defined by the United States Code, Title 18, Section 608, and that the forgiveness of loans made prior to May 11, 1976, even if the forgiveness is effected after that date, does not violate the election laws.

It is our further opinion that the guarantee date of a bank loan establishes the effective date should that guarantee be called upon. Therefore, the payment of \$2,500 on June 10, 1976, by the candidate's brother, does not violate the election laws.

The DAN HALES FOR CONGRESS committee intends to stay in being until after the financial transactions relating to the CITIZENS FOR DAN HALES committee come to an end. The CITIZENS FOR DAN HALES committee is the official committee for the 1978 primary election in Illinois, an election which was also lost. Until the DAN HALES FOR CONGRESS committee files its termination report, we will continue to show the current outstanding loans as outstanding debts of the committee.

Should you have any further questions, please let us hear from you.

Sincerely,
F. Chaloner McNair
F. Chaloner McNair
Treasurer

hwe:

FEDERAL ELECTION COMMISSION



1325 K Street, N.W., Washington, D.C. 20463

CANDIDATE'S FAMILY MEMBERS SUBJECT TO \$1,000 CONTRIBUTION LIMIT

RELEASE: ON RECEIPT

CONTACT: DAVID FISKE
SUSAN TIFFT
(202) 382-4112

WASHINGTON-OCTOBER 4 - The members of a candidate's family are subject to the \$1,000 contribution limit per election to that candidate, the Federal Election Commission said Friday.

In a Policy Statement released Friday, the Commission said that both the Supreme Court and Congress have indicated that the contribution limits of the law apply to immediate family members, unless the money comes from funds over which the candidate "has legal right of access to or control over" at the time he or she became a candidate.

Candidates can make unlimited expenditures from their "personal funds."

The FEC said it was issuing the Policy Statement "in response to the uncertainty which exists concerning the correct contribution limits for members of a candidate's immediate family."

The 1974 law, which imposed spending limits on a candidate, including his immediate family (Presidential candidate, \$50,000; Senate candidate, \$35,000; and House candidate, \$25,000) was interpreted by the U.S. Court of Appeals as being an exception to the \$1,000 contribution limit for certain "immediate family" members. However, the family members were subject to the limit of \$25,000 in total contributions per year. In Advisory Opinion 1975-65, issued in December, 1975, the FEC adopted this Court of Appeals interpretation.

The definition of "immediate family" in the 1974 law included the following: "a candidate's spouse, and any child, parent, grandparent, brother or sister of the candidate, and the spouses of such persons."

On January 30, 1976, the U.S. Supreme Court, in the Buckley v. Valeo, the case challenging the federal campaign finance law, upheld contribution limits to candidates, but said candidate personal spending limits were unconstitutional. In a footnote, it noted that the Court of Appeals and FEC interpretation of the contribution rights of immediate family members was inaccurate, and that Congress had intended that family member funds not under the candidate's personal control be subject to all contribution limits.

On May 11, 1976, the 1976 Amendments were signed into law and reaffirmed the Supreme Court interpretation. The Conference Report for the 1976 Amendments specifically states that the bill "does not in any way disturb the \$1,000 contribution limit applicable to all individuals, including the immediate family of a candidate."

In Friday's Policy Statement, the FEC said it would apply the family member limits to prior cases as follows:

- Prior to January 30, 1976. "immediate family" contributions to a candidate up to \$25,000 per year were legal.
- Between January 30, 1976, and May 11, 1976. Although contributions from "immediate family" members were limited after the Supreme Court opinion to \$1,000, the FEC said, "between January 30 and May 11, 1976, the law was sufficiently unclear that the Commission will not require refund of any contribution in excess of \$1,000 per election, so long as it was within the donor's \$25,000 annual contribution limit."

(OVER)

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However, the Commission said that even though a family member can contribute \$1,000 for each election, (primary, general, and any run-off elections), any contributions made during this special exception period would be aggregated for all elections. Thus, for example, a family member who gave \$5,000 in the primary prior to May 11 would not have to refund the amount over \$1,000, but would not be able to make any further contributions to the general election.

- After May 11, 1976. The \$1,000 limit will be applied, and any amounts exceeding that amount will be required to be refunded.

7804007-1220

BURTON W. HALES, JR.



11 SOUTH LA SALLE STREET
CHICAGO, ILLINOIS 60603
312/346-6339

September 13, 1976

The Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20543

Gentlemen:

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Prior to May 11, 1976, the law regarding limitations on contributions to a political committee were set forth in the United States Code, Title 18, Section 603. It is our understanding that the law then stated no person could contribute in excess of \$1,000 except for the candidate and for his "immediate family" members which included the candidate's parents, brothers and sisters. Their combined contribution limit was \$25,000 in the case of a campaign for the office of Representative.

Effective May 11, 1976, Section 603 was stricken from Title 18 and the law regarding contribution limitations was added to Title 2, Section 441a. It is our understanding that this change eliminated the rule permitting the "immediate family" members from contributing in excess of \$1,000 to the candidate's political committee and added the rule that the candidate could make unlimited contributions to his political committee from funds that were under his control prior to his candidacy.

With the above in mind, we have this question. If the candidate and an "immediate family" member each personally loaned an amount in excess of \$1,000 to the candidate's political committee and also guaranteed a bank loan in excess of \$1,000 all prior to May 11, 1976, and after that date found that the political committee could not repay the loans, is it a violation of the Federal Election Campaign Laws for the candidate and the "immediate family" member to forgive the debts, personally pay off the bank loan and consider all funds as a contribution to the political committee?

It is our belief that surely the candidate is not in violation of the Federal Election Campaign Laws and that the "immediate family" member is also clear of any violation. May we have your written confirmation of this position.

Thank you for your help in this matter.

Sincerely,



FEDERAL ELECTION COMMISSION

ROSEMEAD N.W.
WASHINGTON, D.C. 20543

October 6, 1976

Mr. Burton W. Hales, Jr.
11 South LaSalle Street
Chicago, Illinois 60603

Dear Mr. Hales:

This is in response to your letter of September 13, 1976 concerning the application of the Federal Election Campaign Act of 1971, as amended, to contributions given by members of a candidate's immediate family.

The Federal Election Commission has issued a policy statement and an advisory opinion on the subject of contributions by immediate family members between January 30 and May 11, 1976. The policy statement concluded that:

"During the period between January 30 and May 11, 1976, the law was sufficiently unclear that the Commission will not require refund of any contribution in excess of \$1,000 per election, so long as it was within the donor's \$25,000 annual contribution limitation." (p.4 of enclosed Policy Statement.)

Therefore, these loans would be permissible. However, these loans will count against the immediate family member's \$1,000 per election contribution limitation after May 11, 1976.

As a result of the Supreme Court decision, Buckley v. Valeo, a candidate, who is not receiving public funding as a presidential candidate, may spend without limit from his "personal" funds. For a definition of candidates limitations see Part 110.19 of the enclosed proposed regulations.

If the Commission can be of further assistance, please contact the Office of Public Communications at the above address or call toll free 800/424-9530.

Sincerely,

Kent C. Cooper, Deputy Director
Office of Information Services

ENC/1
Enclosures

7 8 0 4 0 0 7 0 2 2 2

BURTON W. HALEY JR.
415 LEECH HEAD
BETHLEWORTH, ILLINOIS 60003

2100-1352

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716 SEP 10 10:01
August 31, 1976

Federal Election Commission
1375 K Street, N.W.
Washington, D.C. 20543

Attn: General Counsel's Office

Gentlemen:

As Chairman of the newly organized DAN HALEY FOR CONGRESS Committee, I have caused to have filed FEC Form 1, "Statement of Organization for a Political Committee". In answer to question #13, we state that to the extent authorized by law, any funds that may be left over from the Primary campaign and, if then successful, the General campaign may be used to pay outstanding debts incurred by the committee which was organized for Mr. Haley's 1976 Primary campaign, which was unsuccessful.

The 1976 Primary campaign committee has continued to file the FEC Form 3 reports under identification number 051661. The Form 3 report as of December 31, 1976 lists debts totaling \$13,000. This debt was reduced by \$1,000 last week so the total debt now stands at \$12,000.

May we have your opinion that it will be permissible for the current campaign committee to transfer up to \$12,000 to the former campaign committee to pay debts it incurred in the 1976 Primary campaign.

Sincerely,

Burton W. Haley Jr.

Enc:

7804070223

BURTON W. HALES, JR.

70 SEP

6 AM 9:13

11 SOUTH LA SALLE STREET
CHICAGO, ILLINOIS 60601
312/346-0339

September 1, 1977

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

Attn: General Counsel's Office

Gentlemen:

This letter concerns the application of the Federal Election Campaign Act of 1971, as amended, to contributions and/or loans made to a political committee by members of the candidate's immediate family. Reference is made to your letter of October 6, 1976, and my letter of September 13, 1976, copies of which are attached hereto for your convenient reference.

Please know that we are not asking for an advisory opinion but for guidance on what to do regarding the following situation.

Mr. Daniel B. Hales was a qualified candidate in the Illinois primary election held on March 16, 1976, an election which he did not win. During the campaign, it became necessary to borrow funds to meet certain campaign obligations. Below is a list of the present outstanding loans to the DAN HALES FOR CONGRESS COMMITTEE as of this date.

Original Loan Date	Amount	Lender
01-22-76	\$3,000	Burton W. Hales, Jr., the brother of the candidate.
02-17-76	\$5,000	A Chicago bank, with the loan guaranteed by Burton W. Hales, Jr., the brother of the candidate, and Daniel B. Hales, the candidate.
03-22-76	\$3,000	Daniel B. Hales, the candidate.
03-22-76	\$1,000	Marion J. Hales, the mother of the candidate. This is the balance yet due on an original \$3,000 loan.

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Regarding the above \$5,000 loan showing an original loan date of 02-17-76, please be advised that on February 17, 1976, the campaign committee borrowed \$10,000 from a Chicago bank with Burton W. Hales, Jr., the brother of the candidate, and with Daniel B. Hales, the candidate, guaranteeing the loan. On June 10, 1976, there was a balance due the bank of \$5,000, representing the then unpaid balance of the loan. On June 10, 1976, Burton W. Hales, Jr. and Daniel B. Hales each paid the bank \$2,500 as guarantors of the loan because the campaign committee had insufficient cash to pay same. Both Burton W. Hales, Jr. and Daniel B. Hales then and now claim their \$2,500 from the campaign committee and consider it a debt of the committee. The committee still does not have sufficient cash to repay these loans. The committee's current cash balance is \$530.76 which may be used, in part, to pay some of the above loans. The lenders intend to forgive the balance of the afore-said indebtedness.

It is our opinion that the lenders forgiveness will not violate the election laws since the loans were made prior to May 11, 1976. In other words, it is our opinion that a mother and a brother are members of a candidate's "immediate family" as defined by the United States Code, Title 18, Section 608, and that the forgiveness of loans made prior to May 11, 1976, even if the forgiveness is effected after that date, does not violate the election laws.

It is our further opinion that the guarantee date of a bank loan establishes the effective date should that guarantee be called upon. Therefore, the payment of \$2,500 on June 10, 1976 by the brother of the candidate does not violate the election laws.

Your guidance comments regarding our opinions will be much appreciated.

Sincerely,

Burton W. Hales Jr.

buc:

September 7, 1977

NOTE FOR PETER KELL

Please confirm, from reports filed by the DAN HALES FOR CONGRESS COMMITTEE, the facts as represented in the attached letters. Thank you.



Brad Litchfield

Attachments

78040070226

MEMORANDUM

FROM: SUSAN KALTENBAUGH *SK*

THROUGH: PETER KELL

TO: BRAD LITCHFIELD

DATE: SEPTEMBER 9, 1977

RE: VERIFICATION OF REPORTS FILED

In response to your requests of September 7, 1977,
enclosed please find the verification of reports for the

DAN HALES FOR CONGRESS COMMITTEE
FRIENDS OF NEWT STEERS

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DAN HALES FOR CONGRESS

General Observations

1. Burton Hales was the original treasurer of the committee. He was replaced by F. Chaloner McNair on Oct. 30, 1975.
2. Burton Hales has received several small payments disclosed as "expense reimbursement."
3. On Oct. 1975 report, the committee discloses the following contributions:

Marian Hales	9-18-75	\$500
Burton Hales	9-18-75	\$500

See attached Schedule A.

4. Letter dated Sept. 1, 1977 from Burton Hales shows \$5000 is still owed to the Northern Trust Co. This has actually been paid to the bank by the guarantors.

Daniel Hales	6-10-76	\$2500
Burton Hales	6-10-76	\$2500

This money is therefore owed to these individuals. See attached Schedules A & B.

5. The outstanding balance owed to Marian J. Hales should be \$2000. See attached Schedule C.
6. The committee filed only 3A Postcards in 1977.

Other Reporting Problems

1. Many expenditures are inadequately disclosed as to purpose. The purpose given is often:

- "expense reimbursement"
- "services rendered"
- "various services"

2. Small telephone deposit loans are not reported as receipts.

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DAN HALES FOR CONGRESS

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House Team
Sept. 9, 1977

LOAN

REPAYMENT

NAME	REPORT	DATE	AMOUNT	DATE	AMOUNT	BALANCE	COMMENTS
Marian J. Hales	10 Day Primary	1-20-76	\$3,000	2-13-76	\$3,000	0	mother of candidate
Marian J. Hales	April 10, 1976	3-22-76	\$3,000	6-38-76	\$1,000	\$2,000	discrepancy between report and letter
Burton W. Hales	10 Day Primary	1-22-76	\$3,000	--	--	\$3,000	referred to in letter
Burton W. Hales	10 Day Primary	2-10-76	\$1,000	2-11-76	\$1,000	0	not on C Schedule
Burton W. Hales	10 Day Primary	1-19-76	\$200	4-29-76	\$200	0	a) \$600 repayment covered three small loans. b) telephone deposit loan c) not in receipts
Burton W. Hales	April 10, 1976	3-5-76	\$300	4-29-76	\$300	0	a) part of \$600 repayment b) appears in receipts c) telephone deposit loan
Burton W. Hales	April 10, 1976	3-10-76	\$100	4-29-76	\$100	0	same as above
Burton W. Hales	July 10, 1976	6-10-76	\$2,500	--	--	\$2,500	a) given to cmt to pay bank b) letter shows debt owed to bank, not Burton
Northern Trust Co.	10 Day Primary	2-17-76	\$10,000	6-8-76 6-10-76	\$10,000	0	a) no guarantors disclosed on report b) paid with 2500 loans fr Burton Hales & Dan Hale which are still outstanding
Florence W. Hales	10 Day Primary	10-15-75	\$100	4-29-76	\$100	0	a) never shown as receipt b) telephone deposit loan
Martha W. Hales	10 Day Primary	10-15-75	\$100	4-29-76	\$100	0	a) never shown as receipt b) telephone deposit loan

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LOANREPAYMENT

NAME	REPORT	DATE	AMOUNT	DATE	AMOUNT	BALANCE	COMMENTS
Ann Richards	10 Day Primary	1-22-76	\$1,000	4-29-76	\$1,000	0	a) <u>does</u> appear as receipt b) telephone deposit loan
Daniel B. Hales	April 10, 1976	3-22-76	\$3,000	---	---	\$3,000	referred to in letter
Daniel B. Hales	July 10, 1976	6-10-76	\$2,500	---	---	\$2,500	letter shows debts owed to bank



FEDERAL ELECTION COMMISSION

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

October 20, 1977

Mr. Burton W. Hales, Jr.
11 South La Salle Street
Chicago, Illinois 60603

Dear Mr. Hales:

We have your letters of August 31, and September 1, 1977, requesting respectively an opinion and guidance as to the use of future campaign contributions to retire past campaign debts and the forgiveness of loans made by a member of a candidate's family. I regret the delay in responding and appreciate your patience.

Your letter of August 31, apparently raises the questions whether contributions to a newly organized 1978 campaign committee for Dan Hales may be used to retire debts incurred with respect to Mr. Hales' unsuccessful 1976 primary campaign. This question appears to be hypothetical since it is not evident that the 1978 committee will receive contributions in excess of the amounts needed to defray expenditures connected with the 1978 campaign. It is provided in §112.1(b) of the Commission's regulations (11 C.F.R. §112.1(b)) that hypothetical questions may not be treated as advisory opinion requests. You will note that §110.1(g) of the regulations provides that "contributions made to retire debts resulting from elections held after December 31, 1974 are subject to the limitations of this Part 110."

With respect to your letter of September 1, it appears that an advisory opinion may be necessary in view of the fact that on June 10, 1976, you made payment pursuant to an earlier loan guarantee which payment, of course, was after May 11, the effective date of the 1976 amendments. Under 2 U.S.C. 5437f(a) it is not appropriate for the Commission or its employees to issue any opinion of an advisory nature unless it is a formal advisory opinion issued according to the procedures specified in the statute and the Commission's

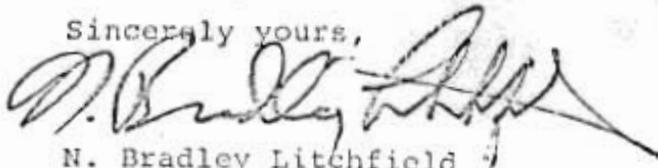
78040070231



regulations. See Part 112. I believe you have previously received the Commission's policy statement issued on the subject of contributions from immediate family members to a related candidate.

If you desire an advisory opinion concerning forgiveness of the loan you previously made to your brother's campaign, a copy of the loan guarantee agreement executed by you and your brother in connection with the bank loan of February 17, 1976, needs to be submitted for our consideration. Please feel free to contact me if you have further questions concerning the advisory opinion procedure.

Sincerely yours,



N. Bradley Litchfield
Assistant General Counsel

78040070232

DAN HALES FOR CONGRESS
ROOM 1211
11 SOUTH LaSALLE STREET
CHICAGO, ILLINOIS 60603

9

July 14, 1978

Office of the Clerk
U. S. House of Representatives
Office of Records and Registration
1036 Longworth House Office Building
Washington, D.C. 20515

I.D.No. 051861

Dear Sir:

We would appreciate receiving the forms necessary to file the Termination Report for the 1976 campaign of DAN HALES FOR CONGRESS. We would also like to seek your advice regarding the proper way to show certain information on the Termination Report.

Currently Mr. Hales, the candidate, and his brother each have an unpaid loan to the campaign committee of \$4,712.16. The campaign committee has no funds nor does it expect to receive any. Thus it is our intention to simply file a statement with the Termination Report that the two \$4,712.16 loans have been forgiven and, in this way, cancel the debt that was shown on Line 13 of the July 10th Quarterly Report. Would this be acceptable or should the loan forgiveness be reported another way?

A copy of the July 10th Quarterly Report is enclosed herewith for your reference.

Thank you for your assistance in this matter.

Sincerely,

F. Chaloner McNair
F. Chaloner McNair
Treasurer

hwe:

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FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 693

