



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 778

Date Filmed 3/12/79 Camera No. --- 2

Cameraman SPC

707104102

APR 1979



FEDERAL ELECTION COMMISSION

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

November 21, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778 (78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "W. C. Oldaker".

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

79010104103



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

11/20/71

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778(78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

151

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

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

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 778
Bill Roy)
Bill Roy for Senate Committee)
Robert Brock)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on November 15, 1978, the Commission determined by a vote of 5-0 to approve the following recommendations, as set forth in First General Counsel's Report dated November 3, 1978, regarding the above-captioned matter:

1. Find no reason to believe that the Act has been violated.
2. Close the file.
3. Approve the letters attached to the above-named report.

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

Attest:

11/17/78
date

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

Report received in Office of Commission Secretary: 11:00
Circulated on 48 hour vote basis: 11:30



FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *MWE*
DATE: NOVEMBER 3, 1978
SUBJECT: OBJECTIONS - MUR 778 - First General
Counsel's Report dated
11-3-78
Received in OCS: 11-3-78, 11:00

The above-named document was circulated on a 48 hour vote basis at 11:30, November 3, 1978.

Commissioner Thomson submitted an objection at 2:30; Commissioner Aikens submitted an objection at 2:31; and Commissioner McGarry approved under certain conditions. A copy of Commissioner McGarry's vote sheet is attached.

Commissioners Tiernan and Harris have approved.

Commissioner Springer submitted an objection at 2:47.

Please advise if you wish this matter to be handled in a manner other than having MUR 778 placed on the next Executive Session Agenda which will be November 15, 1978.

ATTACHMENT:

Copy of Commissioner McGarry's vote sheet

70010104107



FEDERAL ELECTION COMMISSION

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

78 NOV 3 P12: 14

Date and Time Transmitted: November 3, 1978

Commissioner McGarry

RETURN TO OFFICE OF COMMISSION SECRETARY BY: NOVember 7, 1978

MUR No. 778 First General Counsel's Report, dated 11-3-78

- I approve the recommendation
- I object to the recommendation

COMMENTS: I am approving the recommendation of the General Counsel on the basis of the assertion that a review of respondent's reports indicated "no loans that might fit the type described" were uncovered. This matter does not appear to have brought for sinister purposes and thus, may not warrant such expeditious dismissal.

Date: 11/3/78 Signature:

John H. McGarry

THE OFFICE OF GENERAL COUNSEL WILL TAKE NO ACTION IN THIS MATTER UNTIL THE APPROVAL OF FOUR COMMISSIONERS IS RECEIVED. PLEASE RETURN ALL PAPERS NO LATER THAN THE DATE AND TIME SHOWN ABOVE TO THE OFFICE OF COMMISSION SECRETARY. ONE OBJECTION PLACES THE ITEM ON THE EXECUTIVE SESSION AGENDA.



November 3, 1978

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. Garr
SUBJECT: MUR 778

Please have the attached First General Counsel's Report on MUR 778 distributed to the Commission on a 48 hour tally basis.

Thank you.

79040104109

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

RECEIVED
OFFICE OF THE

FIRST GENERAL COUNSEL'S REPORT

78 NOV 3 11:00

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION NOV 3 1978

MUR NO. 778
DATE COMPLAINT RECEIVED
BY OGC 10/27/78
STAFF
MEMBER Lipkin

SOURCE: David H. Brasted, Kansas

RESPONDENT'S NAME: Bill Roy; Bill Roy for Senate Committee,
Robert Brock, Chairman

RELEVANT STATUTE: 2 U.S.C. §§441a(a)(1)(A), 441f, 431(e)
11 C.F.R. §100.4(b)(13)

INTERNAL REPORTS CHECKED: Roy for Senate Committee

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATION

In a notarized complaint, received at the Commission on October 27, 1978, David H. Brasted alleged the existence of a scheme whereby monies would be received by the respondent committee in violation of the limitations imposed on individual contributions in 2 U.S.C. §441a(a)(1)(A). The scheme involves the taking out of a note by the Committee and having individuals co-sign it for various portions. However, there allegedly existed an "undisclosed and separate" understanding between these individual co-signers and respondent Brock, that Brock would cover the amounts guaranteed by these individual co-signers. As Brock has already contributed the maximum allowable, the complainant also alleges a violation of 2 U.S.C. §441f in that the secret agreement makes these funds contributions by him in the names of others.

With his complaint, complainant submitted an affidavit of a person who states he was asked to be one of the co-signors.^{1/}

PRELIMINARY ANALYSIS

Initially, complainant fails to show that the scheme ever came to fruition, and an examination of respondents' reports indicates no loans

^{1/} The complainant also notes that he has filed this complaint with the knowledge of Roy's opponent, but not at her request.

707104110

that might fit the type described by complainant and affiant. The affiant did not claim that he co-signed such a note.

Next, contrary to the complainant's assertion, the described loan, even if made, does not appear to be out of the ordinary course of business. The focus of "ordinary course of business" analysis of the loan would be on the bank's procedures in lending the sum to the primary and secondary obligors (i.e., the Committee and the individual co-signers) 2 U.S.C. § 431(e)(5)(G), see also Reg. § 100.4(b)(13). Private arrangements made by cosignors to meet an obligation to repay in the event of default by the Committee is not in the purview of the ordinary course of business analysis, as it is assumed that a bank considered the ability of the obligors to pay off the debt out of their assets. No evidence has been submitted to show that any purported loans made were not in the ordinary course of business.

RECOMMENDATIONS

1. Find no reason to believe that the Act has been violated; close the file.
2. Approve attached letters.

ATTACHMENTS

1. Complaint
2. Letter to complainant
3. Letter to respondent

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IN THE MATTER OF)
)
BILL ROY FOR SENATE COMMITTEE, et al)
)
_____)

~~807322~~
MUR _____

807322

C O M P L A I N T

DAVID H. BRASTED, being duly sworn, deposes and says:

I. That complainant complains against candidate Bill Roy, the Bill Roy for Senate Committee and Robert Brock, Chairman thereof, for violations of the Federal Election Campaign Act, as amended, 2 USC 431, et seq.

II. That complainant is informed and believes the fact to be that Robert Brock, Bill Roy and the Bill Roy for Senate Committee have acted in concert to violate the provisions of said Act, and complainant believes such violations were knowing, willful, deliberate and intentional.

III. That such actions involve the willful and intentional exceeding of the limitations on individual contributions by respondent Robert Brock by utilizing a guarantor or endorser scheme of borrowing funds by the Bill Roy for Senate Committee through the offices of the Fidelity State Bank and Trust Company of Topeka, Kansas.

IV. That such scheme involves having individuals co-sign a note with the committee for a limited amount of the total loan with a separate and undisclosed understanding between the Bill Roy Committee, Robert Brock and the guarantors. Whether such undisclosed understanding was communicated to the financial institution is unknown to your complainant.

V. That such undisclosed understanding (as is described in the attached affidavit and will be further testified to by persons known to your complainant) was that the guarantor would not be called

A 7 4 9 - 2 - 0 4 1 1 1 3

upon to make good on such guarantee in the event of a default, since the respondent Robert Brock would cover any and all shortages in the event Bill Roy won the election.

VI. That to the extent that persons have participated in this endorsement scheme your complainant believes that there has been a further violation of 2 USC 441f in that the endorsement is in effect an illegal contribution of Robert Brock, but made in the endorser's name.

VII. That the said Robert Brock has already contributed \$1,000.00 to the General Election campaign of the said Bill Roy, and such secret guarantee constitutes a violation of the contribution limitations of 2 USC 441a (a)(1)(A), in that guarantees are considered contributions under the definitions set forth in the Congressional approved regulations of the Federal Election Commission (Reg. 100.4(a)(1)(i)).

VIII. That to the extent that such understanding has been communicated to the Fidelity State Bank and Trust Company, such loan would not be in the usual and ordinary course of business.

IX. That your complainant is informed and believes that the said Robert Brock is a stockholder in said Fidelity State Bank and Trust Company, and a former officer of said institution, and there may be some question of such influence being a motivating factor of said loan rather than ordinary and usual business practices.

X. That your complainant is informed and believes the facts to be that this said loan further violates guidelines as announced by the General Council of the Federal Election Commission in MUR 216/239 (76) in that this loan does not follow the established loan procedure for banks of the status of the loaning bank; that the expectation of repayment in a normal and usual businesslike manner is not apparent; that the multilateral co-signing scheme is not the usual system for borrowing by banks of this community; that to complainant's knowledge neither this bank nor any other financial institution has made a political loan of this kind or character; that this loan is rife with improper and undisclosed agreements which violate the Federal Election laws, Federal Election

Commission Regulations and banking laws of the State of Kansas and the Federal Deposit Insurance Corporation regulations.

XI. That this complaint is filed with the knowledge of the opposing candidate, Nancy Landon Kassebaum, to the said Bill Roy, but not at her suggestion or request.

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

DAVID H. BRASTED, having been sworn, says that he has read the foregoing complaint and knows the contents thereof and says that the foregoing are true and correct, except as to those items stated on information and belief and as to those items he believes them to be true.

David H. Brasted

DAVID H. BRASTED

SUBSCRIBED and SWORN to before me this 26th day of October, 1978.

Theresa J. VanRaben

Notary Public

My Commission Expires:
11-13-81



James F. Schoener

James F. Schoener
2033 M Street, N.W.
Suite 504
Washington, D.C. 20036
(202) 293-2505

Attorney for Complainant

DAVID H. BRASTED
401 North Roosevelt
Wichita, Kansas 67208
(316) 674-0492



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778(78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

700101111



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Re: MUR 778(78)

Dear Mr. Brasted:

The Federal Election Commission has reviewed the allegations of your complaint dated October 26, 1978 and determined that on the basis of the information provided in your complaint, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed.

Accordingly, upon my recommendation, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the Act, please contact me. The file reference number for this matter is MUR 778(78).

Sincerely,

William C. Oldaker
General Counsel

7701013115



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Re: MUR 778(78)

Dear Mr. Brasted:

The Federal Election Commission has reviewed the allegations of your complaint dated October 26, 1978 and determined that on the basis of the information provided in your complaint, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed.

Accordingly, upon my recommendation, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the Act, please contact me. The file reference number for this matter is MUR 778(78).

Sincerely,

William C. Oldaker
General Counsel

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

POSTAGE AND FEES PAID



Mr. David H. Braster
401 North Roosevelt
Wichita, Kansas 67208

MUR 778

COMPLAINANT:

David Brasted

RESPONDENTS:

Bill Roy, Bill Roy for
Senate Committee
(Robert Brock, Chairman)

RELEVANT STATUTE:

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

RECEIVED BY COMMISSION:

October 27, 1978

DATE ASSIGNED TO STAFF:

October 30, 1978

SUBSTANCE OF COMPLAINT:

In a notarized statement, the complainant alleges the existence of a scheme for circumventing the contribution limitations of §441a(a)(1)(A). The scheme involves having respondent Brock function as an unknown and secret guarantor of loans from others to the Roy campaign. An affidavit filed with the complaint alleges Brock would "pay off" the notes once Roy was elected. The Roy Committee's acceptance of such a loan might be in violation of §441f. Further, the guarantor, Mr. Brock, has already contributed the \$1000 maximum allowed by §441a(a)(1)(A).

STATUS:

A full report will be submitted by November 3, 1978.

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FEDERAL ELECTION COMMISSION

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

October 31, 1978

David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Dear Mr. Brasted:

This is to acknowledge receipt of your complaint of October 26, 1978, alleging violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. A recommendation to the Federal Election Commission as to how this matter should be handled will be made shortly. You will be notified as soon as the Commission determines what action should be taken. For your information, we have attached a brief description of the Commission's preliminary procedures for handling complaints.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lester N. Scall".

Lester N. Scall
Assistant General Counsel

Enclosure

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upon to make good on such guarantee in the event of a default, since the respondent Robert Brock would cover any and all shortages in the event Bill Roy won the election.

VI. That to the extent that persons have participated in this endorsement scheme your complainant believes that there has been a further violation of 2 USC 441f in that the endorsement is in effect an illegal contribution of Robert Brock, but made in the endorser's name.

VII. That the said Robert Brock has already contributed \$1,000.00 to the General Election campaign of the said Bill Roy, and such secret guarantee constitutes a violation of the contribution limitations of 2 USC 441a (a)(1)(A), in that guarantees are considered contributions under the definitions set forth in the Congressional approved regulations of the Federal Election Commission (Reg. 100.4(a)(1)(i)).

VIII. That to the extent that such understanding has been communicated to the Fidelity State Bank and Trust Company, such loan would not be in the usual and ordinary course of business.

IX. That your complainant is informed and believes that the said Robert Brock is a stockholder in said Fidelity State Bank and Trust Company, and a former officer of said institution, and there may be some question of such influence being a motivating factor of said loan rather than ordinary and usual business practices.

X. That your complainant is informed and believes the fact to be that this said loan further violates guidelines as announced by the General Counsel of the Federal Election Commission in MUR 216/239 (76) in that this loan does not follow the established loan procedure for banks of the status of the loaning bank; that the expectation of repayment in a normal and usual businesslike manner is not apparent; that the multitudinous co-signing scheme is not the usual system for borrowing by banks of this community; that to complainant's knowledge neither this bank nor any other financial institution has made a political loan of this kind or character; that this loan is rife with improper and undisclosed agreements which violate the Federal Election laws, Federal Election

OCT 27 AM 9:21

A F F I D A V I T

STATE OF KANSAS, SHAWNEE COUNTY, ss:

I, Dr. James N. Nelson, of Topeka, Kansas, of legal age and being first duly sworn upon my oath, depose and state as follows:

A person identifying himself as Dan Lykins called me Monday afternoon, October 16, 1978. When I returned the call to the number he had left, an individual identifying himself as Mr. Lykins said that he wanted my help in the Bill Roy campaign. He said that he had a new plan in which I could sign an unsecured note that would be co-signed by Bob Brock and that if Bill Roy won, Bob Brock would pay off the note after Bill Roy was a senator. He said I could get on the contributions list and it would not cost me any money. He pointed out that no one could contribute more than \$1,000 per campaign and they needed the money now to insure a victory, and then after the election it would not be a problem. He said if Bill Roy lost the election, Bob Brock would not be able to pay off the note but since the polls were showing a healthy lead, the individual said he didn't feel that that was a danger. I told him I needed to get some legal advice, and he said that Bill Roy campaign people had cleared it out legally and had been reassured the plan was O.K. I told him I would think about it and call him later.

Tuesday afternoon a person identifying himself as Gene Schroer, whom I have met socially, called me and said that a new plan to contribute painlessly to the Bill Roy campaign had been worked out so that I could co-sign a note with Bob Brock and if Bill Roy won, Bob Brock would pay it off after the election. I told him I had already been called, and he said that the campaign people probably passed out duplicate lists of people. I told him I felt I should contribute through the first fellow

that called, and he said it didn't matter as long as I got the note signed.

Wednesday morning I called Dan Lykins. I told him I needed to know more about the specifics of a contribution with a loan. He said he would send me an ordinary unsecured loan form from the Fidelity Bank with an envelope addressed to Bill Roy Campaign Headquarters. He asked me how much I wanted to contribute and reminded me that no one could contribute more than \$1,000 to each campaign. I told him I would put down \$500 but wanted to know about being sure Bob Brock would co-sign and if I would get a copy. He was a little vague about the details. He said the system was that when the note arrived at Bill Roy campaign headquarters, Bob Brock would co-sign it, take it to the Fidelity Bank and put the money in the campaign. He said the note was renewable in forty-five days and he reassured me I would never hear from the bank or be pressured because Bob Brock would take care of everything once Bill Roy was a senator.

The foregoing facts are true and correct.

Dr. James N. Nelson
Dr. James N. Nelson

SUBSCRIBED AND SWORN TO before me this 15 day of October, 1978.

Notary Public

My appointment expires:
11-5-80.



FEDERAL ELECTION COMMISSION

1025 K STREET NW
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 778

Date Filmed 3/12/79 Camera No. --- 2

Cameraman BPC

70310104125

2025 Release under E.O. 14176



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR #

778

Date Filmed

5/11/79

Camera No. --- 2

Cameraman

GPC

79040123073

FEDERAL ELECTION COMMISSION

Memo to the General Counsel

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

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

Signed

Gary P. Lipton

date

4/20/79

79040123074



FEDERAL ELECTION COMMISSION

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

April 30, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener
Jenkins, Nystrom and Sterlacci, P.C.
2033 M Street, N.W.
Washington, D.C. 20036

Dear Mr. Schoener:

Please be advised that the Commission discussed the contents of your letter of April 5, 1979 at its open session meeting of April 19, 1979. The Commission reiterated its policy of corresponding directly with attorneys who enter appearances on behalf of respondents in compliance matters and of promptly notifying complainants when a matter is closed.

The Commission also recognized that in connection with non-compliance matters involving candidate and committee reports it is most practical and expeditious to communicate directly with a committee treasurer or candidate, although the committee and/or candidate may be represented by counsel.

We again apologize for inadvertently failing to transmit notice of the Commission's determination to close MUR 778.

Sincerely,

A handwritten signature in dark ink, appearing to read "William C. Oldaker", written over a large, stylized flourish.

William C. Oldaker
General Counsel

940133075

LAW OFFICES

JENKINS, NYSTROM & STERLACCI, P.C.

2033 M STREET, N.W.
WASHINGTON, D. C. 20036

(202) 293-2505

April 5, 1979

OF COUNSEL
JOHN B. CONLAN
EDWARD A. RYDER

MICHIGAN OFFICE
15999 WEST TWELVE MILE ROAD
SOUTHFIELD, MICHIGAN 48078
(313) 558-2824

MERLE R. JENKINS
DENNIS H. NYSTROM
MICHAEL A. STERLACCI
CARL F. SCHIER
JOSEPH E. JANNETTA
JAMES F. SCHOENER
STEPHEN J. HITCHCOCK
CHRIS M. PARFITT
GARY J. NYSTROM
RONALD A. DENEWETH
TIMOTHY J. MULLINS

Honorable Joan Aikens, Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: F.E.C. staff communications
direct to client where
counsel appears.

Dear Chairman Aikens:

Several recent matters with people at the staff level of the Federal Election Commission have resulted in unsatisfactory communications procedures in cases where legal counsel appears on behalf of a client. Confusion and errors creep into these cases where rather technical matters are involved. In one instance, a direct long distance phone call from an analyst to the client created a most confused situation. The analyst, who later was determined to be in error, insisted that the client follow his erroneous directive while the question was still being debated.

In another instance, although I brought a complaint into the Commission personally and my name appears as counsel for the complainant, I found out only on April 5, 1979 that the complaint had been dismissed on November 15, 1978. To my knowledge, neither the complainant nor the affiant who executed the attached affidavit were ever contacted concerning the complaint, nor was I ever given notice of Commission action.

It is my belief that the Commission should institute a procedural order that would require communication with counsel of record in any proceeding or response before your Commission.

Very truly yours,

James F. Schoener
James F. Schoener

cc: American Bar Association
Federal Bar Association
American Trial Lawyers
Association

JFS:sms

79 APR 10 11:11

RECEIVED
OFFICE OF THE
SECRETARY

AGENDA ITEM

For Meeting of: 4/19/79
Agenda Item No: _____
Exhibit No: _____

62031062

Agenda Document #79-73-B

LAW OFFICES

JENKINS, NYSTROM & STERLACCI, P.C.

2033 M STREET, N.W.

WASHINGTON, D. C. 20036

5 APR 1979

15c
DRIVER
LICENSE
EX

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

79040123078

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.....c

Show to whom, date, and address of delivery.....c

RESTRICTED DELIVERY Show to whom and date delivered.....c

RESTRICTED DELIVERY Show to whom, date, and address of delivery. \$____ (CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
David H. Brasted
230 So. Market
Wichita, Ks. 67202

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	<i>438514</i>	

(Always obtain signature of addressee or agent)

I have received the article described above:

SIGNATURE Addressee Authorized agent

4. *Deborah M. ...*
 DATE OF DELIVERY *3-26-79*

5. ADDRESS (Complete only if requested):
230 So. Market
Wichita, Ks. 67202

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



Lipkin MUR-778



FEDERAL ELECTION COMMISSION

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

March 19, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David H. Brasted
Mid Kansas Federal Savings
and Loan Association
Wichita, Kansas 67202

Re: MUR 778(78)

Dear Mr. Brasted:

We apologize for not responding more promptly to your complaint. On the basis of the allegations contained in your complaint, an investigation was conducted. The results of this investigation led the Commission, on November 15, 1978, to determine that there was no reason to believe that a violation of the Federal Election Campaign Act (the Act) had occurred.

If you receive other information which you believe establishes a violation of the Act, please do not hesitate to contact me.

Sincerely yours,

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

William C. Oldaker
General Counsel

79040123079

Mid Kansas Federal Savings & Loan Association
Wichita, Kansas 67202

David H. Brasted
Executive Vice President

79 MAR 12 AM 10:20

March 7, 1979

901368

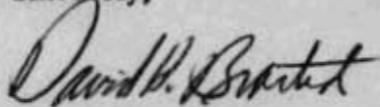
Mr. Lester N. Scall
Assistant General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Mr. Scall:

I filed a complaint against the Bill Roy for Senate Committee for violation of the Federal Election Laws on October 26, 1978. Even though Dr. Roy was defeated in the General Election, I feel that some action should be taken to assure that similar violations of the Federal Election Commission Laws do not occur.

I would appreciate hearing from you at your earliest convenience to let me know what disposition of this complaint has occurred.

Sincerely,



David H. Brasted

DHB:cp

Mar 478
dupl
RECEIVED
FEDERAL ELECTION
COMMISSION
9566

79040123080



FEDERAL ELECTION COMMISSION

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

October 31, 1978

David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Dear Mr. Brasted:

This is to acknowledge receipt of your complaint of October 26, 1978, alleging violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. A recommendation to the Federal Election Commission as to how this matter should be handled will be made shortly. You will be notified as soon as the Commission determines what action should be taken. For your information, we have attached a brief description of the Commission's preliminary procedures for handling complaints.

Sincerely,

A handwritten signature in cursive script that reads "Lester N. Scall".

Lester N. Scall
Assistant General Counsel

Enclosure

79040123081

79040123082



MID KANSAS

Federal Savings and Loan Assoc.
230 South Market
267-1261 Wichita, Kansas 67202

RECEIVED
FEDERAL ELECTION
COMMISSION

'79 MAR 12 AM 10 10



Mr. Lester N. Scall
Assistant General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463



FEDERAL ELECTION COMMISSION

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

November 21, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778(78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "William C. Oldaker", written over a large, stylized flourish.

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

79040104103
79040123083

79040104104

79040123094

MUR 778 LIPKIN

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 c

Show to whom, date, and address of delivery c

RESTRICTED DELIVERY
Show to whom and date delivered c

RESTRICTED DELIVERY
Show to whom, date, and address of delivery. \$
(CONSULT POSTMASTER FOR FEES)

2. ARTICLE ADDRESSED TO:
ROBERT BROCK, CHAIRMAN
BILL ROY FOR SENATE Comm.
P.O. BOX 2361
TOPEKA, KANSAS 66601

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	439280	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE Addressee Authorized agent

Michael J. Roberts

DATE OF DELIVERY NOV 30 1977	POSTMARK
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5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

	CLERK'S INITIALS
--	------------------



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

11/20/78

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778(78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

151

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

79040104105
79040123085

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 778
Bill Roy)
Bill Roy for Senate Committee)
Robert Brock)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on November 15, 1978, the Commission determined by a vote of 5-0 to approve the following recommendations, as set forth in First General Counsel's Report dated November 3, 1978, regarding the above-captioned matter:

1. Find no reason to believe that the Act has been violated.
2. Close the file.
3. Approve the letters attached to the above-named report.

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

Attest:

11/17/78
date

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

Report received in Office of Commission Secretary: 11:00
Circulated on 48 hour vote basis: 11:30

79040104106
79040123086



FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *mwe*
DATE: NOVEMBER 3, 1978
SUBJECT: OBJECTIONS - MUR 778 - First General
Counsel's Report dated
11-3-78
Received in OCS: 11-3-78, 11:00

The above-named document was circulated on a 48 hour vote basis at 11:30, November 3, 1978.

Commissioner Thomson submitted an objection at 2:30; Commissioner Aikens submitted an objection at 2:31; and Commissioner McGarry approved under certain conditions. A copy of Commissioner McGarry's vote sheet is attached.

Commissioners Tiernan and Harris have approved.

Commissioner Springer submitted an objection at 2:47.

Please advise if you wish this matter to be handled in a manner other than having MUR 778 placed on the next Executive Session Agenda which will be November 15, 1978.

ATTACHMENT:
Copy of Commissioner McGarry's vote sheet

79040104107
79040123087



FEDERAL ELECTION COMMISSION

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

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

78 NOV 3 P12: 14

Date and Time Transmitted: November 3, 1978

Commissioner McGuire

RETURN TO OFFICE OF COMMISSION SECRETARY BY: November 7, 1978

MUR No. 778 First General Counsel's Report, dated 11-3-78

I approve the recommendation

I object to the recommendation

COMMENTS: I am approving the recommendation of the General Counsel on the basis of the assertion that a review of respondent's reports indicated "no loans that might fit the type described" were uncovered. This matter does not appear to have brought for sinister purposes and thus, may not warrant such expeditious dismissal.

Date: 11/3/78 Signature:

John H. McGuire

THE OFFICE OF GENERAL COUNSEL WILL TAKE NO ACTION IN THIS MATTER UNTIL THE APPROVAL OF FOUR COMMISSIONERS IS RECEIVED. PLEASE RETURN ALL PAPERS NO LATER THAN THE DATE AND TIME SHOWN ABOVE TO THE OFFICE OF COMMISSION SECRETARY. ONE OBJECTION PLACES THE ITEM ON THE EXECUTIVE SESSION AGENDA.



November 3, 1978

MEMORANDUM TO: Marge Emmons
FROM: Elissa T. GARR
SUBJECT: MUR 778

Please have the attached First General Counsel's Report on MUR 778 distributed to the Commission on a 48 hour tally basis.

Thank you.

79040104109

7904013089

FIRST GENERAL COUNSEL'S REPORT

78 NOV 3 All: 00

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION NOV 3 1978

MUR NO. 778
DATE COMPLAINT RECEIVED
BY OGC 10/27/78
STAFF
MEMBER Lipkin

SOURCE: David H. Brasted, Kansas

RESPONDENT'S NAME: Bill Roy; Bill Roy for Senate Committee,
Robert Brock, Chairman

RELEVANT STATUTE: 2 U.S.C. §§441a(a)(1)(A), 441f, 431(e)
11 C.F.R. §100.4(b)(13)

INTERNAL REPORTS CHECKED: Roy for Senate Committee

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATION

In a notarized complaint, received at the Commission on October 27, 1978, David H. Brasted alleged the existence of a scheme whereby monies would be received by the respondent committee in violation of the limitations imposed on individual contributions in 2 U.S.C. §441a(a)(1)(A). The scheme involves the taking out of a note by the Committee and having individuals co-sign it for various portions. However, there allegedly existed an "undisclosed and separate" understanding between these individual co-signers and respondent Brock, that Brock would cover the amounts guaranteed by these individual co-signors. As Brock has already contributed the maximum allowable, the complainant also alleges a violation of 2 U.S.C. §441f in that the secret agreement makes these funds contributions by him in the names of others.

With his complaint, complainant submitted an affidavit of a person who states he was asked to be one of the co-signors.^{1/}

PRELIMINARY ANALYSIS

Initially, complainant fails to show that the scheme ever came to fruition, and an examination of respondents' reports indicates no loans

^{1/} The complainant also notes that he has filed this complaint with the knowledge of Roy's opponent, but not at her request.

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that might fit the type described by complainant and affiant. The affiant did not claim that he co-signed such a note.

Next, contrary to the complainant's assertion, the described loan, even if made, does not appear to be out of the ordinary course of business. The focus of "ordinary course of business" analysis of the loan would be on the bank's procedures in lending the sum to the primary and secondary obligors (i.e., the Committee and the individual co-signers) 2 U.S.C. § 431(e)(5)(G), see also Reg. § 100.4(b)(13). Private arrangements made by cosignors to meet an obligation to repay in the event of default by the Committee is not in the purview of the ordinary course of business analysis, as it is assumed that a bank considered the ability of the obligors to pay off the debt out of their assets. No evidence has been submitted to show that any purported loans made were not in the ordinary course of business.

RECOMMENDATIONS

1. Find no reason to believe that the Act has been violated; close the file.
2. Approve attached letters.

ATTACHMENTS

1. Complaint
2. Letter to complainant
3. Letter to respondent

7904010411
79040123091

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7 9 0 4 0 1 2 3 0 9 MUR 778

UNITED STATES OF AMERICA OCT 27 AM 9:21
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
)
BILL ROY FOR SENATE COMMITTEE, et al) MUR _____
)
)
_____)

~~887970~~

807322

C O M P L A I N T

DAVID H. BRASTED, being duly sworn, deposes and says:

I. That complainant complains against candidate Bill Roy, the Bill Roy for Senate Committee and Robert Brock, Chairman thereof, for violations of the Federal Election Campaign Act, as amended, 2 USC 431, et seq.

II. That complainant is informed and believes the fact to be that Robert Brock, Bill Roy and the Bill Roy for Senate Committee have acted in concert to violate the provisions of said Act, and complainant believes such violations were knowing, willful, deliberate and intentional.

III. That such actions involve the willful and intentional exceeding of the limitations on individual contributions by respondent Robert Brock by utilizing a guarantor or endorser scheme of borrowing funds by the Bill Roy for Senate Committee through the offices of the Fidelity State Bank and Trust Company of Topeka, Kansas.

IV. That such scheme involves having individuals co-sign a note with the committee for a limited amount of the total loan with a separate and undisclosed understanding between the Bill Roy Committee, Robert Brock and the guarantors. Whether such undisclosed understanding was communicated to the financial institution is unknown to your complainant.

V. That such undisclosed understanding (as is described in the attached affidavit and will be further testified to by persons known to your complainant) was that the guarantor would not be called

upon to make good on such guarantee in the event of a default, since the respondent Robert Brock would cover any and all shortages in the event Bill Roy won the election.

VI. That to the extent that persons have participated in this endorsement scheme your complainant believes that there has been a further violation of 2 USC 441f in that the endorsement is in effect an illegal contribution of Robert Brock, but made in the endorser's name.

VII. That the said Robert Brock has already contributed \$1,000.00 to the General Election campaign of the said Bill Roy, and such secret guarantee constitutes a violation of the contribution limitations of 2 USC 441a (a)(1)(A), in that guarantees are considered contributions under the definitions set forth in the Congressional approved regulations of the Federal Election Commission (Reg. 100.4(a)(1)(i)).

VIII. That to the extent that such understanding has been communicated to the Fidelity State Bank and Trust Company, such loan would not be in the usual and ordinary course of business.

IX. That your complainant is informed and believes that the said Robert Brock is a stockholder in said Fidelity State Bank and Trust Company, and a former officer of said institution, and there may be some question of such influence being a motivating factor of said loan rather than ordinary and usual business practices.

X. That your complainant is informed and believes the fact to be that this said loan further violates guidelines as announced by the General Counsel of the Federal Election Commission in MUR 216/239 (76) in that this loan does not follow the established loan procedure for banks of the status of the loaning bank; that the expectation of repayment in a normal and usual businesslike manner is not apparent; that the multitudinous co-signing scheme is not the usual system for borrowing by banks of this community; that to complainant's knowledge neither this bank nor any other financial institution has made a political loan of this kind or character; that this loan is rife with improper and undisclosed agreements which violate the Federal Election laws, Federal Election

Commission Regulations and banking laws of the State of Kansas and the Federal Deposit Insurance Corporation regulations.

XI. That this complaint is filed with the knowledge of the opposing candidate, Nancy Landon Kassebaum, to the said Bill Roy, but not at her suggestion or request.

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

DAVID H. BRASTED, having been sworn, says that he has read the foregoing complaint and knows the contents thereof and says that the foregoing are true and correct, except as to those items stated on information and belief and as to those items he believes them to be true.

David H. Brasted

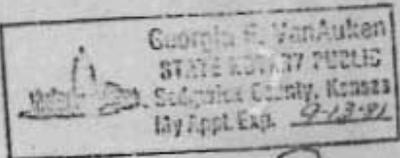
DAVID H. BRASTED

SUBSCRIBED and SWORN to before me this 26th day of October, 1978.

Georgia E. VanAuken

Notary Public

My Commission Expires:
9-13-81



James F. Schoener

James F. Schoener
2033 M Street, N.W.
Suite 504
Washington, D.C. 20036
(202) 293-2505
Attorney for Complainant

DAVID H. BRASTED
401 North Roosevelt
Wichita, Kansas 67208
(316) 684-0492



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778(78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

79040104115
79040123095



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Re: MUR 778(78)

Dear Mr. Brasted:

The Federal Election Commission has reviewed the allegations of your complaint dated October 26, 1978 and determined that on the basis of the information provided in your complaint, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed.

Accordingly, upon my recommendation, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the Act, please contact me. The file reference number for this matter is MUR 778(78).

Sincerely,

William C. Oldaker
General Counsel

79040104116
79040123096



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Re: MUR 778(78)

Dear Mr. Brasted:

The Federal Election Commission has reviewed the allegations of your complaint dated October 26, 1978 and determined that on the basis of the information provided in your complaint, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed.

Accordingly, upon my recommendation, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the Act, please contact me. The file reference number for this matter is MUR 778(78).

Sincerely,

William C. Oldaker
General Counsel

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79040123097

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

POSTAGE AND FEES PAID



Mr. David H. Braster
401 North Roosevelt
Wichita, Kansas 67208

6 6 0 3 2 1 0 4 0 6 2

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

POSTAGE AND FEES PAID



79040123099

Mr. David H. Braster
401 North Roosevelt
Wichita, Kansas 67208

86022104062

MUR 778

COMPLAINANT:

David Brasted

RESPONDENTS:

Bill Roy, Bill Roy for
Senate Committee
(Robert Brock, Chairman)

RELEVANT STATUTE:

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

RECEIVED BY COMMISSION:

October 27, 1978

DATE ASSIGNED TO STAFF:

October 30, 1978

SUBSTANCE OF COMPLAINT:

In a notarized statement, the complainant alleges the existence of a scheme for circumventing the contribution limitations of §441a(a)(1)(A). The scheme involves having respondent Brock function as an unknown and secret guarantor of loans from others to the Roy campaign. An affidavit filed with the complaint alleges Brock would "pay off" the notes once Roy was elected. The Roy Committee's acceptance of such a loan might be in violation of §441f. Further, the guarantor, Mr. Brock, has already contributed the \$1000 maximum allowed by §441a(a)(1)(A).

STATUS:

A full report will be submitted by November 3, 1978.

79040104119
79040123100



FEDERAL ELECTION COMMISSION

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

October 31, 1978

David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Dear Mr. Brasted:

This is to acknowledge receipt of your complaint of October 26, 1978, alleging violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. A recommendation to the Federal Election Commission as to how this matter should be handled will be made shortly. You will be notified as soon as the Commission determines what action should be taken. For your information, we have attached a brief description of the Commission's preliminary procedures for handling complaints.

Sincerely,

Lester N. Scall
Assistant General Counsel

Enclosure

79040104120

79040123101

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7 9 0 4 0 1 2 3 1 0 2 MUR 778

FEDERAL ELECTION COMMISSION

UNITED STATES OF AMERICA OCT 27 AM 9:21
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
)
BILL ROY FOR SENATE COMMITTEE, et al) MUR _____
)
_____)

807322

C O M P L A I N T

DAVID H. BRASTED, being duly sworn, deposes and says:

I. That complainant complains against candidate Bill Roy, the Bill Roy for Senate Committee and Robert Brock, Chairman thereof, for violations of the Federal Election Campaign Act, as amended, 2 USC 431, et seq.

II. That complainant is informed and believes the fact to be that Robert Brock, Bill Roy and the Bill Roy for Senate Committee have acted in concert to violate the provisions of said Act, and complainant believes such violations were knowing, willful, deliberate and intentional.

III. That such actions involve the willful and intentional exceeding of the limitations on individual contributions by respondent Robert Brock by utilizing a guarantor or endorser scheme of borrowing funds by the Bill Roy for Senate Committee through the offices of the Fidelity State Bank and Trust Company of Topeka, Kansas.

IV. That such scheme involves having individuals co-sign a note with the committee for a limited amount of the total loan with a separate and undisclosed understanding between the Bill Roy Committee, Robert Brock and the guarantors. Whether such undisclosed understanding was communicated to the financial institution is unknown to your complainant.

V. That such undisclosed understanding (as is described in the attached affidavit and will be further testified to by persons known to your complainant) was that the guarantor would not be called

upon to make good on such guarantee in the event of a default, since the respondent Robert Brock would cover any and all shortages in the event Bill Roy won the election.

VI. That to the extent that persons have participated in this endorsement scheme your complainant believes that there has been a further violation of 2 USC 441f in that the endorsement is in effect an illegal contribution of Robert Brock, but made in the endorser's name.

VII. That the said Robert Brock has already contributed \$1,000.00 to the General Election campaign of the said Bill Roy, and such secret guarantee constitutes a violation of the contribution limitations of 2 USC 441a (a)(1)(A), in that guarantees are considered contributions under the definitions set forth in the Congressional approved regulations of the Federal Election Commission (Reg. 100.4(a)(1)(i)).

VIII. That to the extent that such understanding has been communicated to the Fidelity State Bank and Trust Company, such loan would not be in the usual and ordinary course of business.

IX. That your complainant is informed and believes that the said Robert Brock is a stockholder in said Fidelity State Bank and Trust Company, and a former officer of said institution, and there may be some question of such influence being a motivating factor of said loan rather than ordinary and usual business practices.

X. That your complainant is informed and believes the fact to be that this said loan further violates guidelines as announced by the General Counsel of the Federal Election Commission in MUR 216/239 (76) in that this loan does not follow the established loan procedure for banks of the status of the loaning bank; that the expectation of repayment in a normal and usual businesslike manner is not apparent; that the multitudinous co-signing scheme is not the usual system for borrowing by banks of this community; that to complainant's knowledge neither this bank nor any other financial institution has made a political loan of this kind or character; that this loan is rife with improper and undisclosed agreements which violate the Federal Election laws, Federal Election

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FEDERAL ELECTION
COMMISSION

'78 OCT 27 AM 9:21

A F F I D A V I T

STATE OF KANSAS, SHAWNEE COUNTY, ss:

I, Dr. James N. Nelson, of Topeka, Kansas, of legal age and being first duly sworn upon my oath, depose and state as follows:

A person identifying himself as Dan Lykins called me Monday afternoon, October 16, 1978. When I returned the call to the number he had left, an individual identifying himself as Mr. Lykins said that he wanted my help in the Bill Roy campaign. He said that he had a new plan in which I could sign an unsecured note that would be co-signed by Bob Brock and that if Bill Roy won, Bob Brock would pay off the note after Bill Roy was a senator. He said I could get on the contributions list and it would not cost me any money. He pointed out that no one could contribute more than \$1,000 per campaign and they needed the money now to insure a victory, and then after the election it would not be a problem. He said if Bill Roy lost the election, Bob Brock would not be able to pay off the note but since the polls were showing a healthy lead, the individual said he didn't feel that that was a danger. I told him I needed to get some legal advice, and he said that Bill Roy campaign people had cleared it out legally and had been reassured the plan was O.K. I told him I would think about it and call him later.

Tuesday afternoon a person identifying himself as Gene Schroer, whom I have met socially, called me and said that a new plan to contribute painlessly to the Bill Roy campaign had been worked out so that I could co-sign a note with Bob Brock and if Bill Roy won, Bob Brock would pay it off after the election. I told him I had already been called, and he said that the campaign people probably passed out duplicate lists of people. I told him I felt I should contribute through the first fellow

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that called, and he said it didn't matter as long as I got the note signed.

Wednesday morning I called Dan Lykins. I told him I needed to know more about the specifics of a contribution with a loan. He said he would send me an ordinary unsecured loan form from the Fidelity Bank with an envelope addressed to Bill Roy Campaign Headquarters. He asked me how much I wanted to contribute and reminded me that no one could contribute more than \$1,000 to each campaign. I told him I would put down \$500 but wanted to know about being sure Bob Brock would co-sign and if I would get a copy. He was a little vague about the details. He said the system was that when the note arrived at Bill Roy campaign headquarters, Bob Brock would co-sign it, take it to the Fidelity Bank and put the money in the campaign. He said the note was renewable in forty-five days and he reassured me I would never hear from the bank or be pressured because Bob Brock would take care of everything once Bill Roy was a senator.

The foregoing facts are true and correct.

Dr. James N. Nelson
Dr. James N. Nelson

SUBSCRIBED AND SWORN TO before me this 15 day of
October, 1978.

Joseph J. Russo
Notary Public

My appointment expires:

11-5-80.



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 778

Date Filmed 4/14/79 Camera No. --- 2

Cameraman Y.A.Q.

79040134140

FEDERAL ELECTION COMMISSION

Memo to the General Counsel

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

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

Signed

Gay P. Lipton

date

4/20/79

FEC 9-21-77

~~7901013074~~
79040134141



FEDERAL ELECTION COMMISSION

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

May 29, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James F. Schoener, Esq.
Jenkins, Nystrom and Sterlacci, P.C.
2033 M Street, N. W.
Washington, D. C. 20036

Re: MUR 778

Dear Mr. *Jen* Schoener:

This is in response to your letter of May 10, 1979. A copy of the First General Counsel's Report on MUR 778, submitted to the Commission on November 3, 1978, and a copy of the certification of the Commission's determination are enclosed for your information. Note that we have attached a copy of the memorandum regarding objections received and Commissioner McGarry's 48 hour tally sheet, which are now part of the public record.

Mr. Gary Lipkin, the attorney who originally handled MUR 778, is no longer with the Commission. If you have any further questions regarding this matter, please contact Mr. Lipkin's former supervisor Lester Scall, the Assistant General Counsel, at 523-4166.

Sincerely,

Bill

William C. Oldaker
General Counsel

Enclosures

Jen if you would like I would be glad to talk to you about this
Bill

69040134142

10091

LAW OFFICES
JENKINS, NYSTROM & STERLACCO
FEDERAL ELECTION COMMISSION

MERLE R. JENKINS
DENNIS H. NYSTROM
MICHAEL A. STERLACCO
CARL F. SCHIER
JOSEPH E. JANNETTA
JAMES F. SCHOENER
STEPHEN J. HITCHCOCK
CHRIS M. PARFITT
GARY J. NYSTROM
RONALD A. DENEWETH
TIMOTHY J. MULLINS

2033 M STREET, N.W.
WASHINGTON, D. C. 20036
(202) 292-2908

OF COUNSEL
JOHN B. CONLAN
EDWARD A. RYDER
MICHIGAN OFFICE
18999 WEST TWELVE MILE ROAD
SOUTHFIELD, MICHIGAN 48076
(313) 599-2828

RECEIVED
'79 MAY 11 PM 12:07

May 10, 1979

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

902329

Re: Complaint in 1978 Kansas -
Roy Campaign

Bill,

Dear Mr. Oldaker:

I received your letter of apology concerning the failure to inform me of the summary dismissal of the complaint filed in the 1978 Senate contest in the State of Kansas. I have not yet received a copy of the report or dismissal and from what I understand, no investigation was ever made of the facts alleged in the complaint. I asked the attorney involved in this matter to have you contact me about the problem, but apparently you did not get the message.

Although I realize you are quite busy, still I think some explanation is due in this case.

I hope I may hear from you concerning it.

Very truly yours,

James F. Schoener

JFS/sms

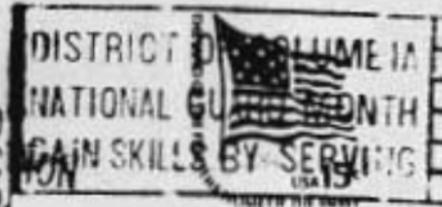
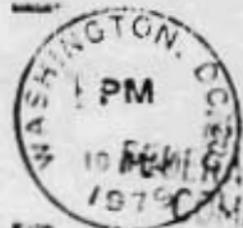
79040134143

LAW OFFICES

JENKINS, NYSTROM & STERLACCI P.C.

2033 M STREET, N.W.

WASHINGTON, D. C. 20036



RECEIVED
FEDERAL ELECTION
COMMISSION

'79 MAY 11 PM 12:02

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

7904013414

For Division Use

790511122509 MPT

Suspense No.

902329

Name and Address of Sender

JAMES F SCHOENER
2033 M ST
WASH. D. C. 20036

Subject of Correspondence

COMPL.

Date Received

05/11/79

Suspense Date

06/01/79

Referred to

Action (Optional)

1. GARR

2.

3.

4.

5.

Answer Date

N/A

File Designation

7300

Special Instructions:

CORRESPONDENCE CONTROL SLIP

FEDERAL ELECTION COMMISSION

Do Not Separate From Document

FEC Form 17 (Revised March 1977)

GPO 813-848

79040134145

LAW OFFICES

JENKINS, NYSTROM & STERLACCI, P.C.

2033 M STREET, N.W.
WASHINGTON, D. C. 20038
(202) 293-2505

OF COUNSEL
JOHN B. CONLAN
EDWARD A. RYDER

MICHIGAN OFFICE
15999 WEST TWELVE MILE ROAD
SOUTHFIELD, MICHIGAN 48078
(313) 559-2828

MERLE R. JENKINS
DENNIS M. NYSTROM
MICHAEL A. STERLACCI
ARL F. SCHIER
JOSEPH E. JANNETTA
JAMES F. SCHOENER
STEPHEN J. HITCHCOCK
CHRIS M. PARFITT
GARY J. NYSTROM
RONALD A. DENEWETH
TIMOTHY J. MULLINS

April 5, 1979

Honorable Joan Aikens, Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

Re: F.E.C. staff communications
direct to client where
counsel appears.

Dear Chairman Aikens:

Several recent matters with people at the staff level of the Federal Election Commission have resulted in unsatisfactory communications procedures in cases where legal counsel appears on behalf of a client. Confusion and errors creep into these cases where rather technical matters are involved. In one instance, a direct long distance phone call from an analyst to the client created a most confused situation. The analyst, who later was determined to be in error, insisted that the client follow his erroneous directive while the question was still being debated.

In another instance, although I brought a complaint into the Commission personally and my name appears as counsel for the complainant, I found out only on April 5, 1979 that the complaint had been dismissed on November 15, 1978. To my knowledge, neither the complainant nor the affiant who executed the attached affidavit were ever contacted concerning the complaint, nor was I ever given notice of Commission action.

It is my belief that the Commission should institute a procedural order that would require communication with counsel of record in any proceeding or response before your Commission.

Very truly yours,

James F. Schoener
James F. Schoener

cc: American Bar Association
Federal Bar Association
American Trial Lawyers
Association

JFS:sms

AGENDA ITEM

For Meeting of: 4/19/79
Agenda Item No: _____
Exhibit No: _____

RECEIVED
APR 10 11:31
LIBRARY

79076
3076
1147
1147
1147

Agenda Document #79-73-B

LAW OFFICES

JENKINS, NYSTROM & STERLACCI, P.C.

2033 M STREET, N.W.

WASHINGTON, D. C. 20036



Thomas E. Harris
Federal Election Commission
1325 X Street, N.W.
Washington, D.C. 20463

7993843413979

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
David H. Brasted
230 So. Market
Wichita, Ks. 67202

3. ARTICLE DESCRIPTION
 REGISTERED NO. | CERTIFIED NO. | INSURED NO.
 - | **438514** |

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY
3-26-79

5. ADDRESS (Complete only if requested)
230 So. Market
Wichita, Ks. 67202

6. UNABLE TO DELIVER BECAUSE. CLERK'S INITIALS



Lipkin MUR-778 GPO 1977-0-249-506



FEDERAL ELECTION COMMISSION

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

March 19, 1979

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

David H. Brasted
Mid Kansas Federal Savings
and Loan Association
Wichita, Kansas 67202

Re: MUR 778(78)

Dear Mr. Brasted:

We apologize for not responding more promptly to your complaint. On the basis of the allegations contained in your complaint, an investigation was conducted. The results of this investigation led the Commission, on November 15, 1978, to determine that there was no reason to believe that a violation of the Federal Election Campaign Act (the Act) had occurred.

If you receive other information which you believe establishes a violation of the Act, please do not hesitate to contact me.

Sincerely yours,

William C. Oldaker
General Counsel

79040123079
79040134150

Mid Kansas Federal Savings & Loan Association
Wichita, Kansas 67202

David H. Brasted
Executive Vice President

79 MAR 12 AM 10:20

March 7, 1979

901368

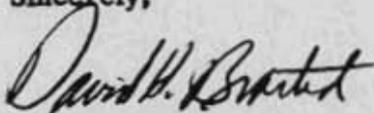
79040123090
Mr. Lester N. Scall
Assistant General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20463

5
Dear Mr. Scall:

7904013415
I filed a complaint against the Bill Roy for Senate Committee for violation of the Federal Election Laws on October 26, 1978. Even though Dr. Roy was defeated in the General Election, I feel that some action should be taken to assure that similar violations of the Federal Election Commission Laws do not occur.

I would appreciate hearing from you at your earliest convenience to let me know what disposition of this complaint has occurred.

Sincerely,



David H. Brasted

DHB:cp



FEDERAL ELECTION COMMISSION

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

October 31, 1978

David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Dear Mr. Brasted:

This is to acknowledge receipt of your complaint of October 26, 1978, alleging violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. A recommendation to the Federal Election Commission as to how this matter should be handled will be made shortly. You will be notified as soon as the Commission determines what action should be taken. For your information, we have attached a brief description of the Commission's preliminary procedures for handling complaints.

Sincerely,

Lester N. Scall
Assistant General Counsel

Enclosure

79040123081
79040134152

7 9 0 4 0 1 2 3 0 8 2

MID KANSAS

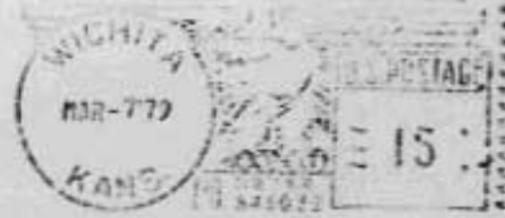
Federal Savings and Loan Assoc.
230 South Market
267-1261 Wichita, Kansas 67202

9 0 4 0 1 3 4 1 5 3

RECEIVED
FEDERAL ELECTION
COMMISSION

'79 MAR 12 AM 10

Mr. Lester N. Scall
Assistant General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463





FEDERAL ELECTION COMMISSION

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

November 21, 1978

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778(78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "W. C. Oldaker", written over a large, faint circular stamp or watermark.

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

79040104103
040154154

79040104067

MUR 77X LIPKIN

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
 ROBERT BOCK, Chairman
 BILL ROY FOR SENATE Comm.
 PO BOX 2301
 TOPEKA, KANSAS 66601

3. ARTICLE DESCRIPTION
 REGISTERED NO. CERTIFIED NO. INSURED NO.
 438280

(Always obtain signature of addressee or agent)

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

4. DATE OF DELIVERY NOV 30 POSTMARK

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE: CLERK'S INITIALS



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

11/20/76

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778 (78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

151

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

A handwritten signature in cursive script, likely belonging to William C. Oldaker.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 778
Bill Roy)
Bill Roy for Senate Committee)
Robert Brock)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on November 15, 1978, the Commission determined by a vote of 5-0 to approve the following recommendations, as set forth in First General Counsel's Report dated November 3, 1978, regarding the above-captioned matter:

1. Find no reason to believe that the Act has been violated.
2. Close the file.
3. Approve the letters attached to the above-named report.

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

Attest:

11/17/78
Date

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

Report received in Office of Commission Secretary: 11:00
Circulated on 48 hour vote basis: 11:30

79040104106
2040134157



FEDERAL ELECTION COMMISSION

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

MEMORANDUM TO: CHARLES STEELE
FROM: MARJORIE W. EMMONS *MWE*
DATE: NOVEMBER 3, 1978
SUBJECT: OBJECTIONS - MUR 778 - First General
Counsel's Report dated
11-3-78
Received in OCS: 11-3-78, 11:00

The above-named document was circulated on a 48 hour vote basis at 11:30, November 3, 1978.

Commissioner Thomson submitted an objection at 2:30; Commissioner Aikens submitted an objection at 2:31; and Commissioner McGarry approved under certain conditions. A copy of Commissioner McGarry's vote sheet is attached.

Commissioners Tiernan and Harris have approved.

Commissioner Springer submitted an objection at 2:47.

Please advise if you wish this matter to be handled in a manner other than having MUR 778 placed on the next Executive Session Agenda which will be November 15, 1978.

ATTACHMENT:
Copy of Commissioner McGarry's vote sheet

79040104107
79040134159



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

78 NOV 3 PI2: 14

Date and Time Transmitted: November 3, 1978Commissioner: McGuireRETURN TO OFFICE OF COMMISSION SECRETARY BY: November 7, 1978MUR No. 778 First General Counsel's Report, dated 11-3-78

- I approve the recommendation
- I object to the recommendation

COMMENTS: I am approving the recommendation of the General
Counsel on the basis of the assertion that a review of respondent's
reports indicated "no loans that might fit the type described"
were uncovered. This matter does not appear to have brought
for sinister purposes and thus, may not warrant such expeditious
dismissal.

Date: 11/3/78 Signature: John H. McGuire

THE OFFICE OF GENERAL COUNSEL WILL TAKE NO ACTION IN THIS MATTER
 UNTIL THE APPROVAL OF FOUR COMMISSIONERS IS RECEIVED. PLEASE
 RETURN ALL PAPERS NO LATER THAN THE DATE AND TIME SHOWN ABOVE TO
 THE OFFICE OF COMMISSION SECRETARY. ONE OBJECTION PLACES THE ITEM
 ON THE EXECUTIVE SESSION AGENDA.



November 3, 1978

MEMORANDUM TO: Marge Emons
FROM: Elissa T. GARR
SUBJECT: MUR 778

Please have the attached First General Counsel's Report on MUR 778 distributed to the Commission on a 48 hour tally basis.

Thank you.

79040104109
79040134160

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

RECEIVED
OFFICE OF THE
COMMISSIONER

FIRST GENERAL COUNSEL'S REPORT

78 NOV 3 11:00

DATE AND TIME OF TRANSMITTAL
BY OGC TO THE COMMISSION NOV 3 1978

MUR NO. 778
DATE COMPLAINT RECEIVED
BY OGC 10/27/78
STAFF
MEMBER Lipkin

SOURCE: David H. Brasted, Kansas

RESPONDENT'S NAME: Bill Roy; Bill Roy for Senate Committee,
Robert Brock, Chairman

RELEVANT STATUTE: 2 U.S.C. §§441a(a)(1)(A), 441f, 431(e)
11 C.F.R. §100.4(b)(13)

INTERNAL REPORTS CHECKED: Roy for Senate Committee

FEDERAL AGENCIES CHECKED: None

SUMMARY OF ALLEGATION

In a notarized complaint, received at the Commission on October 27, 1978, David H. Brasted alleged the existence of a scheme whereby monies would be received by the respondent committee in violation of the limitations imposed on individual contributions in 2 U.S.C. §441a(a)(1)(A). The scheme involves the taking out of a note by the Committee and having individuals co-sign it for various portions. However, there allegedly existed an "undisclosed and separate" understanding between these individual co-signers and respondent Brock, that Brock would cover the amounts guaranteed by these individual co-signors. As Brock has already contributed the maximum allowable, the complainant also alleges a violation of 2 U.S.C. §441f in that the secret agreement makes these funds contributions by him in the names of others.

With his complaint, complainant submitted an affidavit of a person who states he was asked to be one of the co-signors.^{1/}

PRELIMINARY ANALYSIS

Initially, complainant fails to show that the scheme ever came to fruition, and an examination of respondents' reports indicates no loans

^{1/} The complainant also notes that he has filed this complaint with the knowledge of Roy's opponent, but not at her request.

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that might fit the type described by complainant and affiant. The affiant did not claim that he co-signed such a note.

Next, contrary to the complainant's assertion, the described loan, even if made, does not appear to be out of the ordinary course of business. The focus of "ordinary course of business" analysis of the loan would be on the bank's procedures in lending the sum to the primary and secondary obligors (i.e., the Committee and the individual co-signers) 2 U.S.C. § 431(e)(5)(G), see also Reg. § 100.4(b)(13). Private arrangements made by cosignors to meet an obligation to repay in the event of default by the Committee is not in the purview of the ordinary course of business analysis, as it is assumed that a bank considered the ability of the obligors to pay off the debt out of their assets. No evidence has been submitted to show that any purported loans made were not in the ordinary course of business.

RECOMMENDATIONS

1. Find no reason to believe that the Act has been violated; close the file.
2. Approve attached letters.

ATTACHMENTS

1. Complaint
2. Letter to complainant
3. Letter to respondent

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7040134162

0 4 0 1 0 4 1 1
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MUR 778

UNITED STATES OF AMERICA OCT 27 AM 9:21
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
)
BILL ROY FOR SENATE COMMITTEE, et al) MUR _____
)
)
_____)

~~807320~~

807322

C O M P L A I N T

DAVID H. BRASTED, being duly sworn, deposes and says:

I. That complainant complains against candidate Bill Roy, the Bill Roy for Senate Committee and Robert Brock, Chairman thereof, for violations of the Federal Election Campaign Act, as amended, 2 USC 431, et seq.

II. That complainant is informed and believes the fact to be that Robert Brock, Bill Roy and the Bill Roy for Senate Committee have acted in concert to violate the provisions of said Act, and complainant believes such violations were knowing, willful, deliberate and intentional.

III. That such actions involve the willful and intentional exceeding of the limitations on individual contributions by respondent Robert Brock by utilizing a guarantor or endorser scheme of borrowing funds by the Bill Roy for Senate Committee through the offices of the Fidelity State Bank and Trust Company of Topeka, Kansas.

IV. That such scheme involves having individuals co-sign a note with the committee for a limited amount of the total loan with a separate and undisclosed understanding between the Bill Roy Committee, Robert Brock and the guarantors. Whether such undisclosed understanding was communicated to the financial institution is unknown to your complainant.

V. That such undisclosed understanding (as is described in the attached affidavit and will be further testified to by persons known to your complainant) was that the guarantor would not be called

upon to make good on such guarantee ~~in the event~~ of a default, since the respondent Robert Brock would cover any and all shortages in the event Bill Roy won the election.

VI. That to the extent that persons have participated in this endorsement scheme your complainant believes that there has been a further violation of 2 USC 441f in that the endorsement is in effect an illegal contribution of Robert Brock, but made in the endorser's name.

VII. That the said Robert Brock has already contributed \$1,000.00 to the General Election campaign of the said Bill Roy, and such secret guarantee constitutes a violation of the contribution limitations of 2 USC 441a (a)(1)(A), in that guarantees are considered contributions under the definitions set forth in the Congressional approved regulations of the Federal Election Commission (Reg. 100.4(a)(1)(i)).

VIII. That to the extent that such understanding has been communicated to the Fidelity State Bank and Trust Company, such loan would not be in the usual and ordinary course of business.

IX. That your complainant is informed and believes that the said Robert Brock is a stockholder in said Fidelity State Bank and Trust Company, and a former officer of said institution, and there may be some question of such influence being a motivating factor of said loan rather than ordinary and usual business practices.

X. That your complainant is informed and believes the fact to be that this said loan further violates guidelines as announced by the General Counsel of the Federal Election Commission in MUR 216/239 (76) in that this loan does not follow the established loan procedure for banks of the status of the loaning bank; that the expectation of repayment in a normal and usual businesslike manner is not apparent; that the multitudinous co-signing scheme is not the usual system for borrowing by banks of this community; that to complainant's knowledge neither this bank nor any other financial institution has made a political loan of this kind or character; that this loan is rife with improper and undisclosed agreements which violate the Federal Election laws, Federal Election

19040134165

Commission Regulations and banking laws of the State of Kansas and the Federal Deposit Insurance Corporation regulations.

XI. That this complaint is filed with the knowledge of the opposing candidate, Nancy Landon Kassebaum, to the said Bill Roy, but not at her suggestion or request.

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

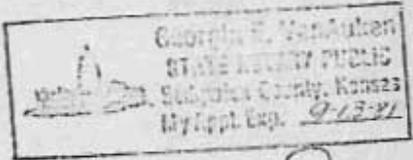
DAVID H. BRASTED, having been sworn, says that he has read the foregoing complaint and knows the contents thereof and says that the foregoing are true and correct, except as to those items stated on information and belief and as to those items he believes them to be true.

David H. Brasted
DAVID H. BRASTED

SUBSCRIBED and SWORN to before me this 26th day of October, 1978.

George E. VanAulen
Notary Public

My Commission Expires:
9-13-81



James F. Schoener
James F. Schoener
2033 M Street, N.W.
Suite 504
Washington, D.C. 20036
(202) 293-2505

Attorney for Complainant

DAVID H. BRASTED
401 North Roosevelt
Wichita, Kansas 67208
(316) 684-0492



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Brock, Chairman
Bill Roy for Senate Committee
P. O. Box 2381
Topeka, Kansas 66601

Re: MUR 778(78)

Dear Mr. Brock:

I am forwarding for your information the enclosed complaint which was received by the Commission.

The Commission has determined that on the basis of the information in the complaint there is no reason to believe that a violation of any statute within its jurisdiction has been committed. Accordingly, the Commission intends to close its file on this matter.

Sincerely,

William C. Oldaker
General Counsel

Enclosure:

1. Complaint

79040104115
040134166



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Re: MUR 778(78)

Dear Mr. Brasted:

The Federal Election Commission has reviewed the allegations of your complaint dated October 26, 1978 and determined that on the basis of the information provided in your complaint, there is no reason to believe that a violation of the Federal Election Campaign Act of 1971, as amended, ("the Act") has been committed.

Accordingly, upon my recommendation, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the Act, please contact me. The file reference number for this matter is MUR 778(78).

Sincerely,

William C. Oldaker
General Counsel

79040104116
9040134167



FEDERAL ELECTION COMMISSION

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

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Re: MUR 778(78)

Dear Mr. Brasted:

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Accordingly, upon my recommendation, the Commission has decided to close the file in this matter.

Should additional information come to your attention which you believe establishes a violation of the Act, please contact me. The file reference number for this matter is MUR 778(78).

Sincerely,

William C. Oldaker
General Counsel

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040134168

FEDERAL ELECTION COMMISSION

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

POSTAGE AND FEES PAID



79040134169

Mr. David H. Braster
401 North Roosevelt
Wichita, Kansas 67208

8602107062

MUR 778

COMPLAINANT:

David Brasted

RESPONDENTS:

Bill Roy, Bill Roy for
Senate Committee
(Robert Brock, Chairman)

RELEVANT STATUTE:

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

RECEIVED BY COMMISSION:

October 27, 1978

DATE ASSIGNED TO STAFF:

October 30, 1978

SUBSTANCE OF COMPLAINT:

In a notarized statement, the complainant alleges the existence of a scheme for circumventing the contribution limitations of §441a(a)(1)(A). The scheme involves having respondent Brock function as an unknown and secret guarantor of loans from others to the Roy campaign. An affidavit filed with the complaint alleges Brock would "pay off" the notes once Roy was elected. The Roy Committee's acceptance of such a loan might be in violation of §441f. Further, the guarantor, Mr. Brock, has already contributed the \$1000 maximum allowed by §441a(a)(1)(A).

STATUS:

A full report will be submitted by November 3, 1978.

79040104119
140134170



FEDERAL ELECTION COMMISSION

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

October 31, 1978

David H. Brasted
401 North Roosevelt
Wichita, Kansas 67208

Dear Mr. Brasted:

This is to acknowledge receipt of your complaint of October 26, 1978, alleging violations of the Federal Election Campaign laws. A staff member has been assigned to analyze your allegations. A recommendation to the Federal Election Commission as to how this matter should be handled will be made shortly. You will be notified as soon as the Commission determines what action should be taken. For your information, we have attached a brief description of the Commission's preliminary procedures for handling complaints.

Sincerely,

A handwritten signature in cursive script that reads "Lester N. Scall".

Lester N. Scall
Assistant General Counsel

Enclosure

79040104120
9040134171

7 9 0 4 0 1 0 4 1 **NOT DELIVERED**

6004
5316

9 0 1 0 1 3 4 1 7 2

12 779

UNITED STATES OF AMERICA **OCT 27 AM 9:21**
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
)
BILL ROY FOR SENATE COMMITTEE, et al) MUR _____
)
)
_____)

007322

C O M P L A I N T

DAVID H. BRASTED, being duly sworn, deposes and says:

I. That complainant complains against candidate Bill Roy, the Bill Roy for Senate Committee and Robert Brock, Chairman thereof, for violations of the Federal Election Campaign Act, as amended, 2 USC 431, et seq.

II. That complainant is informed and believes the fact to be that Robert Brock, Bill Roy and the Bill Roy for Senate Committee have acted in concert to violate the provisions of said Act, and complainant believes such violations were knowing, willful, deliberate and intentional.

III. That such actions involve the willful and intentional exceeding of the limitations on individual contributions by respondent Robert Brock by utilizing a guarantor or endorser scheme of borrowing funds by the Bill Roy for Senate Committee through the offices of the Fidelity State Bank and Trust Company of Topeka, Kansas.

IV. That such scheme involves having individuals co-sign a note with the committee for a limited amount of the total loan with a separate and undisclosed understanding between the Bill Roy Committee, Robert Brock and the guarantors. Whether such undisclosed understanding was communicated to the financial institution is unknown to your complainant.

V. That such undisclosed understanding (as is described in the attached affidavit and will be further testified to by persons known to your complainant) was that the guarantor would not be called

upon to make good on such guarantee in the event of a default, since the respondent Robert Brock would cover any and all shortages in the event Bill Roy won the election.

VI. That to the extent that persons have participated in this endorsement scheme your complainant believes that there has been a further violation of 2 USC 441f in that the endorsement is in effect an illegal contribution of Robert Brock, but made in the endorser's name.

VII. That the said Robert Brock has already contributed \$1,000.00 to the General Election campaign of the said Bill Roy, and such secret guarantee constitutes a violation of the contribution limitations of 2 USC 441a (a)(1)(A), in that guarantees are considered contributions under the definitions set forth in the Congressional approved regulations of the Federal Election Commission (Reg. 100.4(a)(1)(i)).

VIII. That to the extent that such understanding has been communicated to the Fidelity State Bank and Trust Company, such loan would not be in the usual and ordinary course of business.

IX. That your complainant is informed and believes that the said Robert Brock is a stockholder in said Fidelity State Bank and Trust Company, and a former officer of said institution, and there may be some question of such influence being a motivating factor of said loan rather than ordinary and usual business practices.

X. That your complainant is informed and believes the fact to be that this said loan further violates guidelines as announced by the General Counsel of the Federal Election Commission in MUR 216/239 (76) in that this loan does not follow the established loan procedure for banks of the status of the loaning bank; that the expectation of repayment in a normal and usual businesslike manner is not apparent; that the multitudinous co-signing scheme is not the usual system for borrowing by banks of this community; that to complainant's knowledge neither this bank nor any other financial institution has made a political loan of this kind or character; that this loan is rife with improper and undisclosed agreements which violate the Federal Election laws, Federal Election

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Commission Regulations and banking laws of the State of Kansas and the Federal Deposit Insurance Corporation regulations.

XI. That this complaint is filed with the knowledge of the opposing candidate, Nancy Landon Kassebaum, to the said Bill Roy, but not at her suggestion or request.

STATE OF KANSAS)
) ss:
SEDGWICK COUNTY)

DAVID H. BRASTED, having been sworn, says that he has read the foregoing complaint and knows the contents thereof and says that the foregoing are true and correct, except as to those items stated on information and belief and as to those items he believes them to be true.

David H. Brasted

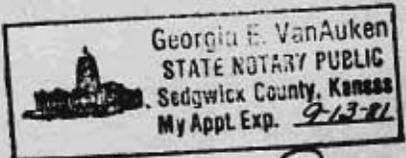
DAVID H. BRASTED

SUBSCRIBED and SWORN to before me this 26th day of October, 1978.

Georgia E. VanAuken

Notary public

My Commission Expires:
9-13-81



James F. Schoener

James F. Schoener
2033 M Street, N.W.
Suite 504
Washington, D.C. 20036
(202) 293-2505

Attorney for Complainant

DAVID H. BRASTED
401 North Roosevelt
Wichita, Kansas 67208
(316) 684-0492

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A F F I D A V I T

STATE OF KANSAS, SHAWNEE COUNTY, ss:

I, Dr. James N. Nelson, of Topeka, Kansas, of legal age and being first duly sworn upon my oath, depose and state as follows:

A person identifying himself as Dan Lykins called me Monday afternoon, October 16, 1978. When I returned the call to the number he had left, an individual identifying himself as Mr. Lykins said that he wanted my help in the Bill Roy campaign. He said that he had a new plan in which I could sign an unsecured note that would be co-signed by Bob Brock and that if Bill Roy won, Bob Brock would pay off the note after Bill Roy was a senator. He said I could get on the contributions list and it would not cost me any money. He pointed out that no one could contribute more than \$1,000 per campaign and they needed the money now to insure a victory, and then after the election it would not be a problem. He said if Bill Roy lost the election, Bob Brock would not be able to pay off the note but since the polls were showing a healthy lead, the individual said he didn't feel that that was a danger. I told him I needed to get some legal advice, and he said that Bill Roy campaign people had cleared it out legally and had been reassured the plan was O.K. I told him I would think about it and call him later.

Tuesday afternoon a person identifying himself as Gene Schroer, whom I have met socially, called me and said that a new plan to contribute painlessly to the Bill Roy campaign had been worked out so that I could co-sign a note with Bob Brock and if Bill Roy won, Bob Brock would pay it off after the election. I told him I had already been called, and he said that the campaign people probably passed out duplicate lists of people. I told him I felt I should contribute through the first fellow

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that called, and he said it didn't matter as long as I got the note signed.

Wednesday morning I called Dan Lykins. I told him I needed to know more about the specifics of a contribution with a loan. He said he would send me an ordinary unsecured loan form from the Fidelity Bank with an envelope addressed to Bill Roy Campaign Headquarters. He asked me how much I wanted to contribute and reminded me that no one could contribute more than \$1,000 to each campaign. I told him I would put down \$500 but wanted to know about being sure Bob Brock would co-sign and if I would get a copy. He was a little vague about the details. He said the system was that when the note arrived at Bill Roy campaign headquarters, Bob Brock would co-sign it, take it to the Fidelity Bank and put the money in the campaign. He said the note was renewable in forty-five days and he reassured me I would never hear from the bank or be pressured because Bob Brock would take care of everything once Bill Roy was a senator.

The foregoing facts are true and correct.

Dr. James N. Nelson
Dr. James N. Nelson

SUBSCRIBED AND SWORN TO before me this 15 day of
October, 1978.

Notary Public

My appointment expires:

11-5-80.



FEDERAL ELECTION COMMISSION

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

THIS IS THE BEGINNING OF MUR # 778

Date Filmed 10/14/79 Camera No. --- 2

Cameraman J.A.Q.

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