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March 25, 1991

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RECEIVED
FEDERAL ELECTION COMMISSION

N. Bradley Litchfield
Office of General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Litchfield:

ADR
1991-09

This letter constitutes a request for an Advisory Opinion on behalf of Congressman Peter Hoagland and his principal campaign committee, Hoagland for Congress Committee ("the Committee") under 2 U.S.C. § 437f.

Congressman Hoagland was first elected to the U.S. House of Representatives in 1988. During 1987 and 1988, the Congressman made a series of loans of personal funds to the Committee. The loans were made from personal assets of the Congressman, with the exception of two \$25,000 bank loans which he took out from Norwest Bank in Omaha and subsequently loaned to the Committee.

While the outstanding balance varied at different times during this period, the amount loaned totaled \$290,000. As of December 31, 1990, \$155,430.93 had been repaid on these loans, and some of the loans had been repaid in full. There is still outstanding, however, a current balance of \$134,569.07.

The loans have been continuously reported by the Committee as loans of the candidate's personal funds. Funds obtained by the Congressman from bank loans have been disclosed as loans from the original source, Norwest Bank.

None of the loans to the Committee were memorialized by any written instrument until July of last year. There was, however, the understanding that the loans, together with interest, would be repaid to the Congressman in full if funds were available.

In July 1990, when approximately \$170,000 of the loans remained outstanding, after the time pressures of the original campaign and the first eighteen months in office had subsided, the Congressman executed a promissory note with the Committee. Under this agreement, a copy of which is enclosed, the Committee is obligated to repay the remaining outstanding balance on all of the loans with interest. In addition, the Committee is required to pay interest on the loans retroactive to the date each loan was made. The retroactive payment of interest is conditioned upon approval of the Commission. The interest charged is, for the loans obtained from Norwest Bank, the amount charged by the bank. For all other loans, the interest is the applicable federal rate published by the Internal Revenue Service around the time of the execution of the note.

The Federal Election Commission has approved the payment of interest on loans owed to a candidate. In Advisory Opinion 1986-45, 1 Fed. Election Camp. Fin. Guide (CCH) ¶ 5881, the Commission approved the payment of interest to a candidate by his principal campaign committee on loans of the candidate's personal funds outstanding from his prior campaign. In approving this interest payment arrangement, the Commission required that the loans had been reported continuously as loans, not contributions, and that the interest rate charged represented a commercially reasonable rate.

Assuming these conditions were met, the Commission concluded that the repayment of the loans to the candidate and the payment of interest on these loans would be permissible, and neither would be considered a conversion by the candidate of campaign funds to personal use.

In that Advisory Opinion, however, the committee proposed beginning its computation of interest at a date after the issuance of the Advisory Opinion, some five years after the loans were originally made. In addition, the interest was to be computed solely on the balance of loans that remained outstanding at the time of the AOR.

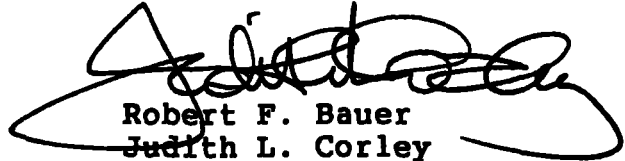
It does not appear that the Commission has ever addressed the payment of interest on candidate loans retroactive to the date of the original loans, nor the payment of such interest on loans that have been repaid.

We seek, therefore, an Advisory Opinion on these issues. In addition, if the Commission approves the payment of interest in these circumstances, we ask that the Commission clarify the reporting requirements related to such interest payments.

N. Bradley Litchfield
March 25, 1991
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**If you have any questions or need additional information,
please do not hesitate to contact one of the undersigned.**

Very truly yours,

A handwritten signature in black ink, appearing to be a cursive combination of the names Robert F. Bauer and Judith L. Corley. The signature is written over the typed names below it.

**Robert F. Bauer
Judith L. Corley
Counsel to Congressman Peter
Hoagland and the Hoagland
for Congress Committee**

0153m

PROMISSORY NOTE

WHEREAS Peter Hoagland loaned the Hoagland for Congress Committee funds to finance the primary and general election campaigns in 1988; and

WHEREAS these funds were helpful in financing the successful election of Peter Hoagland to the United States Congress; and

WHEREAS Peter Hoagland had an agreement with the Hoagland for Congress Committee that if he were elected to Congress the funds would be repaid and that a reasonable rate of interest would be charged on those loans; and

WHEREAS the parties now wish to reduce this agreement to writing so that the terms thereof may be memorialized:

THEREFORE, in consideration of the above preambles, which are by this reference made part of this agreement;

IT IS AGREED this _____ day of July, 1990, that the Hoagland for Congress Committee ("Borrower") will pay Peter Hoagland ("Lender") as follows:

- 1. Borrower promises to pay to the order of Peter Hoagland on demand all of the following amounts in full:**
 - a. Principal and interest on the loans identified in Schedule 1 attached to this Promissory Note in the following amounts:**

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- i. the entire principal of each loan remaining outstanding as of the date of this Note; and
 - ii. interest on the unpaid principal at a rate of 8.47 percent per annum, such interest to be compounded annually, and to be calculated as of the date of this Note until the principal is repaid in full; and
 - iii. interest on the unpaid principal balance at a rate of 8.47 percent per annum, such interest to be compounded annually, and to be calculated as of the date each loan was first entered into between Lender and Borrower until the date of this Note; and
- b. Interest on the loans identified in Schedule 2 attached to this Promissory Note at a rate of 8.47 percent per annum, such interest to be compounded annually, and to be calculated from the date each loan was first entered into between Lender and Borrower until each loan was repaid; and
- c. Principal and interest on the loans identified in Schedule 3 attached to this Promissory Note in the following amounts:
- i. the entire principal of each loan remaining outstanding as of the date of this Note; and

- ii. interest on the unpaid principal at a rate of interest charged Lender by Norwest Bank to be calculated as of the date of this Note until the principal is repaid in full; and
- iii. interest on the principal of each of the loans, whether paid or unpaid as of the date of this Note, at a rate of interest charged Lender by Norwest Bank to be calculated as of the date each amount was first loaned to Borrower by Lender until each amount was repaid by Borrower to Lender or until the date of this Note, whichever is earlier.

2. Repayment of the principal remaining outstanding as of the date of this Note may begin at any time. Payments toward this principal may be made at any time, in any amount.

3. Except as provided in Paragraph 4, interest payments may begin at any time. Such interest payments may be made at any time, in any amount.

4. The interest payments identified in Paragraph 1(a)(iii), Paragraph 1(b) and Paragraph 1(c)(iii) above shall be contingent on the receipt of an Advisory Opinion from the Federal Election Commission which approves the payment of such interest.

5. Borrower shall identify for each payment made the loan to which payment shall be applied, the amount to be considered payment of principal, and the amount to be considered payment of interest.

6. Borrower assumes responsibility for compliance with all requirements under the Federal Election Campaign Act of 1971, as amended, for any disclosure required as a result of signing this Note.

7. At Borrower's option and without penalty, Borrower may prepay at any time all or any part of the unpaid principal balance of this Promissory Note, and, except as provided in Paragraph 4, any accrued interest thereon.

8. Nothing in this Promissory Note prohibits Lender from forgiving all or any portion of the loans identified in this Note or any accrued interest on such loans at any time.

9. This Promissory Note shall be governed by the laws of Nebraska.

HOAGLAND FOR CONGRESS COMMITTEE

By: _____
Treasurer

Date: _____

1585E

SCHEDULE 1

<u>Loan Date</u>	<u>Original Amount</u>	<u>Repayment Amount</u>	<u>Repayment Date</u>	<u>Current Balance</u>
04/04/88	\$12,000			\$12,000
04/08/88	\$3,000			\$3,000
04/23/88	\$17,000			\$17,000
04/28/88	\$23,000			\$23,000
09/16/88	\$4,000			\$4,000
09/26/88	\$25,000			\$25,000
10/06/88	\$50,000			\$50,000
10/12/88	\$6,000			\$6,000
10/27/88	\$4,000			\$4,000
10/29/88	\$7,500			\$7,500
11/02/88	\$2,000			\$2,000
07/06/89	\$6,000			\$6,000

SCHEDULE 2

<u>Loan Date</u>	<u>Original Amount</u>	<u>Repayment Amount</u>	<u>Repayment Date</u>	<u>Current Balance</u>
08/05/87	\$2,000	\$2,000	12/22/87	0
09/14/87	\$1,000	\$1,000	12/22/87	0
10/20/87	\$5,000	\$2,500 \$2,500	07/07/88 07/29/88	0
10/27/87	\$7,500	\$2,500 \$5,000	7/29/88 8/27/88	0 0
01/08/88	\$15,000	\$3,000 \$6,000 \$4,000 \$2,000	08/27/88 09/28/88 10/24/88 11/01/88	0
01/30/88	\$11,000	\$1,000 \$10,000	03/10/89 07/06/89	0
02/19/88	\$10,000	\$4,000 \$6,000	08/08/89 07/06/89	0
02/29/88	\$3,500	\$3,500	09/11/89	0
03/08/88	\$2,500	\$1,500 \$1,000	09/11/89 10/01/89	0
03/14/88	\$3,500	\$2,500 \$1,000	10/01/89 10/01/89	0
03/16/88	\$1,000	\$1,000	10/01/89	0
03/23/88	\$3,000	\$3,000	10/01/89	0
04/04/88	\$5,500	\$500 \$5,000	10/01/89 12/05/89	0
06/16/88	\$1,000	\$1,000	06/26/88	0
08/10/88	\$5,000	\$5,000	11/15/88	0
09/16/88	\$4,000	\$4,000	12/30/88	0

SCHEDULE 3

<u>Loan Date</u>	<u>Original Amount</u>	<u>Repayment Amount</u>	<u>Repayment Date</u>	<u>Current Balance</u>
03/28/88	\$7,000	\$4,000 \$3,000	03/10/89 03/28/89	0
04/08/88	\$2,000	\$2,000	03/28/89	0
04/15/88	\$16,000	\$11,000 \$5,000	03/28/89 04/11/89	0
05/02/88	\$25,000	\$7,500 \$7,000	03/12/90 04/27/90	\$10,500

TOTALS

**Original
Amount**

\$290,000

**Repayment
Amount**

\$120,000

**Current
Balance**

\$170,000

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