FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2705

DATE FILMED 10/27/93 CAMERA NO. 2

CAMERAMAN MC

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OGC 520

MUR 2705

September 28, 1988

RECEIVED
FEDERAL ELECTION COMMISSION
88 SEP 28 PM 5:03

Lawrence M. Noble, Esquire
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20004

Dear Mr. Noble:

This Complaint, Robert L. Livingston, 2509 Giuffrias, ("Complainant"), Number 624, Metairie, LA 70001, against George Mustakas and the Mustakas for Congress Committee (FEC ID # C00230862), 3445 North Causeway Boulevard, Suite 715, Metairie, LA 70002, is filed with the Federal Election Commission ("FEC") pursuant to 2 U.S.C section 437g(a) of the Federal Election Campaign Act of 1971, as amended ("the Act").

George Mustakas ("Mustakas"), a candidate for the U.S. House of Representatives from Louisiana's First Congressional District, and the Mustakas for Congress Committee (FEC ID # C00230862), Mustakas' principal campaign committee ("the Mustakas Committee"), have violated the Act by failing to file the required 12-Day Pre-Primary Election Report for the October 1, 1988 Louisiana primary.

93040980600

I. FACTS

On July 29, 1988, George Mustakas filed his Statement of Candidacy with the FEC. On August 10, 1988, Mustakas filed his Statement of Organization with the FEC setting up his principal campaign committee. By taking these actions, Mustakas became a candidate in the eyes of the FEC. Additionally, the Mustakas Committee became a political committee for reporting purposes.

The primary for Louisiana will take place on October 1, 1988. For all the candidates participating in such primary, a 12-Day Pre-Primary Election Report was required to be filed by September 19, 1988 detailing receipts and expenditures through September 11, 1988. Mustakas will be participating in the October 1st Primary, but as of this date has failed to file the required Pre-Primary Report. Mustakas and the Mustakas Committee have also failed to comply with the 48 Hour Notification Rule.

The above cited failure represents a knowing and willful violation of the Act.

II. DISCUSSION

Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the Act. (2 U.S.C. section 434(a)(1)). If the political committee is the principal campaign committee for a candidate for the House of Representatives, the treasurer shall file a pre-election report, which shall be filed no later than the 12th day before any election in which such candidate is seeking election, and which shall be complete as of the 20th day before such election. (2 U.S.C. section 434(a)(2)(A)(i).

Additionally, the principal campaign committee of a candidate shall notify the House Clerk, or the FEC and the Secretary of State, in writing, of any contribution of $1,000 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. This notification shall be in addition to all other reporting requirements under the Act. (2 U.S.C. section 434(a)(6)).

As noted above, Mustakas, a candidate participating in the October 1st Primary, has, as of this date, failed to file the required pre-primary report or any of the required 48 Hour Notifications. Such knowing and willful failures represent clear violations of the Act.

IV. PRAYER FOR RELIEF

Complainant requests that the FEC investigate these violations and enforce the Federal Election Campaign Act and the Commission's regulations.

Complainant further requests that the FEC seek the maximum fines for each violation as set forth in 2 U.S.C. section 437g, and take all steps necessary, including civil and injunctive action, to prevent respondents from continuing their illegal activity.

V. VERIFICATION

The undersigned swears that the allegations and facts set forth in this complaint are true to the best of his knowledge, information and belief.

Robert L. Livingston
2509 Giuffrias
Number 624
Metairie, LA 70001

CITY OF WASHINGTON
DISTRICT OF COLUMBIA

Subscribed and sworn before me this 28th day of September, 1988.

Notary Public
Robert H. Cooksey
Notary Public, Dist. of Columbia
Commission Expires July 14, 1990

My Commission Expires:________________

93040980603

plum

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 5, 1988

Mr. Robert L. Livingston
2504 Giuffrias
Number 524
Metairie, LA 700[illegible]

RE: MUR 2705

Dear Mr. Livingston:

This letter acknowledges receipt on September 28, 1988, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by Mustakas For Congress, Inc. and Gary J. Bordes, as treasurer. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 2705. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints. If you have any questions, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

93040980604

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

October 5, 1988

Gary J. Bordes, Treasurer
Mustakas For Congress, Inc.
3000 Ridgelake
Suite 104
Metairie, LA 70002

RE: MUR 2705
Mustakas For Congress,
Inc. and Gary J. Bordes,
as treasurer

Dear Mr. Bordes:

The Federal Election Commission received a complaint which alleges that Mustakas For Congress, Inc. and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended (the "Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 2705. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and Mustakas For Congress, Inc. in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with Section 437g(a)(4)(B) and Section 437g(a)(12)(A) of Title 2 unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

93040980605

If you have any questions, please contact Keith Morgan, the staff member assigned to this matter, at (202) 376-8200. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble
General Counsel

By: Lois G. Lerner
Associate General Counsel

Enclosures
1. Complaint
2. Procedures
3. Designation of Counsel Statement

93040980606

OGC#734

FEDERAL ELECTION COMMISSION
MAIL ROOM

88 OCT 24 AM 10:00

GARY J. BORDES

3000 Ridgelake Drive Suite 104
Metairie, LA. 70002
(504) 837-7700

Federal Election Commission
Washington, D. C. 20463

October 20, 1988

RE: MUR 2705
Mustakas for Congress, Inc.

Gentlemen:

The appropriate report was mailed on 10/14/88. I was asked to be Treasurer for the Mustakas for Congress, Inc. campaign. All booklets and forms were sent to 3445 N. Causeway Blvd. Suite 715. My address is 3000 Ridgelake Drive, Suite 104. All booklets and forms were dropped off at my office after the campaign was over, and I did not know about the report due 12 days before the elections. Therefore I completed both the 12 days before the election report and the report due 10/15/88 for the quarter ended 9/30/88. The only defense I have is pure ignorance. The campaign only had 10 contributors, and almost all of the money was the candidate's.

Again, I regret the delay of these reports. Thank you for all of your courtesies.

Very truly yours,

Gary J. Bordes

Gary J. Bordes
Treasurer

GJB:jj

cc: George Mustakas, II

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RECEIVED
FEDERAL ELECTION COMMISSION

88 OCT 24 PM 3:26

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 APR -6 AM 12:40

SENSITIVE

FEDERAL ELECTION COMMISSION
999 E Street, N.W.
Washington, D.C. 20463

FIRST GENERAL COUNSEL'S REPORT

MUR 2705
Date Received by OGC:
October 3, 1988
Date of Notification to
Respondents: October 5, 1988
Staff Member: Keith V. Morgan

COMPLAINANT: Robert L. Livingston

RESPONDENTS: Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(a)(2)(A)(i)
2 U.S.C. § 434(a)(6)(A)
2 U.S.C. § 434(b)(3)(A)

INTERNAL REPORTS CHECKED: Public Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On October 3, 1988, the Office of the General Counsel received a signed and notarized complaint from Robert L. Livingston alleging that the respondents Mustakas for Congress, Inc. (the "Committee") and Gary J. Bordes, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(a)(6)(A). The Committee is the principal campaign committee of George Mustakas, an unsuccessful candidate in Louisiana's 1988 First Congressional District primary election.

II. FACTUAL AND LEGAL ANALYSIS

1. The Complaint

Livingston alleges that the Committee failed to file a 12-Day Pre-Primary Election Report as required by 2 U.S.C. § 434(a)(2)(A)(i). Section 434(a)(2)(A)(i) requires the

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principal campaign committee of candidates for the House of Representatives to file a Pre-Election Report, which should be filed no later than the 12th day before the election in which the candidate is seeking election or nomination for election. According to the complaint, Mustakas was a candidate in the October 1, 1988, Louisiana Congressional Primary, but the Committee failed to file in a timely fashion the required 12-Day Pre-Primary Report. This report was due to be filed on September 19, 1988, but according to the public record the report was not filed until October 14, 1988. The complainant also alleges that the Committee failed to notify the Clerk of the House, or the Commission and the Secretary of State, in writing within 48 hours, of the receipt of any contributions of $1,000 or more received by the Committee after the 20th day, but more than 48 hours before the primary election in accordance with 2 U.S.C. § 434(a)(6)(A).

2. The Response

On October 24, 1988, this Office received a response from Gary J. Bordes, the treasurer of the Committee (Attachment 1). In his response Mr. Bordes states that the Pre-Primary Report was mailed on October 14, 1988. Bordes claims that he did not know about the Pre-Primary Report because all booklets and forms concerning the election were mailed to the Committee's address and not his office address. He claims he did not receive the election material from the Committee's office until after the campaign was over. He states that once he received the booklets and forms explaining his duties as treasurer he filed the Committee's Pre-Primary and October Quarterly Reports.

3. The Analysis

The public record indicates that the Pre-Primary Report was filed 25 days late. Bordes acknowledges in his response that he did not file the Committee's Pre-Primary Report on time. He explains only that although treasurer of the Committee he did not pick up the Committee's mail prior to the election. Since it is not disputed that the report was filed late, this Office recommends that the Commission find reason to believe that Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i).

The complaint also alleges that the respondents failed to provide the Commission with 48 hour notification of contributions of a $1,000 or more received by the Committee during the last 20 days before the election as required by the Act. A review of the Committee's October Quarterly Report, which includes in its coverage the 20 day period prior to the primary election, indicates that no contributions of $1,000 or more were received by the Committee during that period. Based on the absence of any contributions that would have required 48 hour notification, this Office recommends that the Commission find no reason to believe 2 U.S.C. § 434(a)(6)(A) was violated by Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer.

A review of the reports filed by the Committee reveal a possible violation of the Act that is not alleged by the complainant. The Act requires political committees to disclose the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions in the aggregate exceed $200 within the calendar year. 2 U.S.C. § 434(b)(3)(A). Section 434(b)(3)(A) requires the date and the amount of each such contribution to be included in the report. The Committee's Pre-Primary Report discloses $102,880 in total contributions, and line 11(e) of the report discloses that the committee received $100,000 from the candidate (Attachment 3, page 2). However, the Committee fails to itemize on either its Pre-Primary or October Quarterly Reports the date or dates any of the $100,000 was received by the Committee in accordance with 2 U.S.C. § 434(b)(3)(A). Therefore, this Office recommends the Commission find reason to believe the Mustakas for Congress Committee, Inc. and Gary J. Bordes, as treasurer violated 2 U.S.C. § 434(b)(3)(A).

III. RECOMMENDATIONS

1. Find reason to believe Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A).

2. Find no reason to believe Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer violated 2 U.S.C. § 434(a)(6)(A).

3. Approve the attached letter and factual and legal analysis.

Lawrence M. Noble
General Counsel

April 6, 1989
Date

BY: George F. Rishel
George F. Rishel
Acting Associate General Counsel

Attachments
1. The Response
2. Proposed letter and Factual and Legal Analysis
3. The Committee's Pre-Primary and October Quarterly Reports

Staff Person: Keith V. Morgan

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Mustakas for Congress, Inc. and	)	MUR 2705
Gary J. Bordes, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 10, 1989, the Commission decided by a vote of 6-0 to take the following actions in MUR 2705:

1. Find reason to believe Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A).

2. Find no reason to believe Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer violated 2 U.S.C. § 434(a)(6)(A)..

3. Approve the letter and factual and legal analysis, as recommended in the First General Counsel's report signed April 6, 1989.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

4-11-89

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in the Office of Commission Secretary:	Thurs.,	4-6-89,	12:40
Circulated on 48 hour tally basis:	Thurs.,	4-6-89,	4:00
Deadline for vote:	Mon.,	4-10-89,	4:00

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plm

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 14, 1989

Gary J. Bordes, Treasurer
Mustakas for Congress, Inc.
3445 N. Causeway Boulevard, Suite 715
Metairie, Louisiana 70002

RE: MUR 2705
Mustakas for Congress, Inc.
and Gary J. Bordes, as
treasurer

Dear Mr. Bordes:

On October 5, 1988, the Federal Election Commission notified Mustakas for Congress, Inc. ("Committee") and you, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint was forwarded to you at that time.

Upon further review of the allegations contained in the complaint, and information supplied by you, the Commission, on April 10, 1989, found that there is reason to believe the Committee and you, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A), provisions of the Act. The Factual and Legal Analysis, which formed a basis for the Commission's findings, is attached for your information. The Commission also found that there is no reason to believe the Committee and you as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Keith V. Morgan, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Vice Chairman

Enclosures
Designation of Counsel Form
Factual and Legal Analysis

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer

MUR: 2705

I. FACTUAL BACKGROUND

On October 3, 1988, the Office of the General Counsel received a signed and notorized complaint from Robert L. Livingston alleging that the respondents Mustakas for Congress, Inc. (the "Committee") and Gary J. Bordes, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i). The Committee is the principal campaign of George Mustakas, an unsuccessful candidate in Louisiana's 1988 First Congressional District primary election. Livingston alleges that the Committee failed to file a 12-Day Pre-Primary Election Report as required by 2 U.S.C. § 434(a)(2)(A)(i).

Section 434(a)(2)(A)(i) of the Act requires the principal campaign committee of candidates for the House of Representatives to file a Pre-Election Report, which should be filed no later than the 12th day before the election in which the candidate is seeking election or nomination for election. According to the complaint, Mustakas was a candidate in the October 1, 1988, Louisiana Congressional Primary, but the Committee failed to file in a timely fashion the required 12-Day Pre-Primary Report. This report was due to be filed on September 19, 1988, but according to the public record the report was not filed until October 14, 1988.

On October 24, 1988 this office received a response from Gary J. Bordes the treasurer of the Committee. In his response

Mr. Bordes states that the Pre-Primary Report was mailed on October 14, 1988. Bordes claims that he did not know about the Pre-Primary Report because all booklets and forms concerning the election were mailed to the Committee's address and not his office address. He explains that he did not receive the election material from the Committee's office until after the campaign was over. He states that once he received the booklets and forms explaining his duties as treasurer he filed the Committee's Pre-Primary and October Quarterly Reports.

II. LEGAL ANALYSIS

Bordes acknowledges in his response that he did not file the Committee's Pre-Primary Report on time. He explains that although treasurer of the Committee he did not pick up the Committee's mail prior to the election. The public record indicates that the Pre-Primary Report was filed 25 days late. Therefore, there is reason to believe that Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i).

A review of the reports filed by the Committee reveal a possible violation of the Act that is not alleged by the complainant. The Act requires political committees to disclose the identification of each person who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions in the aggregate exceed $200 within the calendar year. 2 U.S.C. § 434(b)(3)(A). Section 434(b)(3)(A) requires the date and the amount of each such contribution to be included in the report. The Committee's Pre-Primary Report discloses $102,880 in total contributions, and line 11(e) of the report discloses that the committee received $100,000 from the candidate. However, the Committee fails to itemize on either its Pre-Primary or October Quarterly Reports the date or dates any of the $100,000 was received by the Committee in accordance with 2 U.S.C. § 434(b)(3)(A). Therefore, there is reason to believe the Mustakas for Congress Committee, Inc. and Gary J. Bordes, as treasurer violated 2 U.S.C. § 434(b)(3)(A).

06C2458

MUR2705

BPS ENTERPRISES, INC.
4408 Shores Drive
Suite E
Metairie, Louisiana 70006

Tel. # (504)885-3991 Fax # (504)885-4315

June 2, 1989

Keith Morgan
Federal Election Commission
Washington, D.C. 20463

Identification Number C00230862

Reference 12 Day Pre-Primary Report
8/10/88 - 9/11/88.

Dear Mr. Morgan:

I am respectfully requesting additional time regarding Mustakas for Congress, Inc. The $100,000 reported on line 11 (d) was actually borrowed from Hibernia National Bank, P.O. Box 61540, New Orleans, La. 70161. The note was dated 8/2/88, matured 9/2/88, interest rate 9½%, collateralized by Certificates of Deposit of the candidate's parents.

I will be inquiring as to what took place at the maturity date of 9/2/88.

Any further correspondence regarding this matter should be mailed directly to me as follows:

c/o BPS Enterprises, Inc.
4408 Shores Drive
Suite E
Metairie, La. 70006

If you have any questions please feel free to contact me.

Respectfully,

Gary J Bordes

Gary J. Bordes

93040980619

Plum

FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

June 7, 1989

Gary J. Bordes, Treasurer
c/o BPS Enterprises, Inc.
4408 Shores Drive
Suite E
Metarie, Louisiana 70006

MUR: 2705
Mustakas for Congress Inc.,
and Gary J. Bordes,
as treasurer

Dear Mr. Bordes:

This is in response to your letter dated June 2, 1989, which we received on that same day, requesting an extension to respond to the Commission's April 10, 1989 reason to believe finding in this matter. After considering the circumstances presented in your letter, I have granted an extension until the close of business on June 17, 1989.

If you have any questions, please contact Keith V. Morgan, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lisa E. Klein
Assistant General Counsel

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OGC 3162

BPS Enterprises, Inc.
4408 Shores Drive, Suite E
Metairie, LA 70006

TEL. (504) 885-3991 FAX (504) 885-4315

RECEIVED
FEDERAL ELECTION COMMISSION
ADMINISTRATIVE DIVISION
89 JUN 22 AM 11:12

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
89 JUN 22 PM 1:25

June 15, 1989

Federal Election Commission
Mr. Keith V. Morgan
Washington, D.C. 20463

Your Reference 2705
Mustakas for Congress, Inc.

Dear Mr. Morgan:

The $100,000 note originally dated 8/2/88 was paid off during May 1989. Since Mr. Mustakas' parents liquidated their certificate of deposit to pay the bank note, the $100,000 amount must be considered as a contribution from the candidate's parents.

If any additional information is needed, please feel free to contact me directly.

Respectfully,

Gary J. Bordes

Gary J. Bordes

GJB/sp

93040980621

FEDERAL ELECTION COMMISSION
RECEIVED
SECRETARIAT

89 JUN 16 AM 10:00

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
Mustakas for Congress, Inc.) MUR 2705
and Gary J. Bordes, as treasurer)

COMPREHENSIVE INVESTIGATIVE REPORT #1

On April 10, 1989, the Commission found reason to believe the Mustakas for Congress Committee, Inc. (the "Committee") and Gary J. Bordes, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A). After the Committee failed to respond to these findings within fifteen days, a Commission staff person twice contacted Mr. Bordes by telephone. During the second conversation, Mr. Bordes stated that he needed more time to gather information about the unitemized $100,000 contribution the candidate made to his campaign that was the basis of the Commission's Section 434(b)(3)(A) reason to believe finding.

On June 2, 1989, Mr. Bordes telefaxed a letter to the Commission requesting more time to respond. The letter also stated that the unitemized contribution was a loan from Hiberia National Bank in New Orleans, which was secured by the candidate's parents. See Attachment 1. Since the letter raises the possibility that additional violations may have occurred, this Office granted the respondents an additional fifteen days to respond. This Office will forward to the

Commission a General Counsel's Report, with recommendations, after it receives and analyzes the Committee's response.

Lawrence M. Noble
General Counsel

Date 6/15/89 BY: Lois G. Lerner
Associate General Counsel

Attachment
Respondents' request for
an extension of time to respond.

Staff Assigned: Keith V. Morgan

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MWE MARJORIE W. EMMONS/JOSHUA MCFADDEN JM

DATE: JUNE 20, 1989

SUBJECT: MUR 2705
COMPREHENSIVE INVESTIGATIVE REPORT #1
SIGNED JUNE 15, 1989

The above-captioned report was received in the Secretariat at 10:00 a.m. on Friday, June 16, 1989 and circulated to the Commission on a 24-hour no-objection basis at 11:00 a.m. on Monday, June 19, 1989.

There were no objections to the report.

93040980624

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

89 NOV -6 AM 11:59

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
)
Mustakas for Congress, Inc. and) MUR 2705
Gary J. Bordes, as treasurer)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On April 10, 1989, the Commission found reason to believe that Mustakas for Congress, Inc. (the "Committee"), and Gary J. Bordes, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A).[1] Thereafter, this Office discovered additional information concerning the unitemized $100,000 contribution which was the basis of the Commission's Section 434(b)(3)(A) determination. This information, as discussed below, raises additional potential violations of the Federal Election Campaign Act, as amended (the "Act").

II. STATUS OF THE INVESTIGATION TO DATE

A. Information Received

According to written and oral communication with Gary J. Bordes, the Committee's treasurer, it appears that, on August 2, 1988, George Mustakas, II and Collette Mustakas, the parents of the candidate, cosigned a $100,000 bank note with their son, who signed as the principle obligor. The loan was received from the Hiberia National Bank in New Orleans, Louisiana. In addition to cosigning the note, the parents of the candidate also secured

1. George Mustakas was a 1988 candidate for U.S. Congress from Lousiana's First Congressional District. He lost the general election with 15% of the vote.

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the loan with certificates of deposit that totaled $100,000. After receiving the loan, the candidiate then gave the money to the Committee. Mr. Bordes further stated that in May 1989, the parents of the candidate satisfied the bank note by liquidating their certificates of deposit, the collateral used to secure the loan.

B. Additional Violations

The Act limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A). In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make an expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under Section 441a. 2 U.S.C. § 441a(f).

The Act defines "contribution" to include loans, but excepts those loans made in accordance with applicable law and in the ordinary course of business by a state chartered or federally insured bank. 2 U.S.C. § 431(8)(B)(vii); 11 C.F.R. § 100.7(a)(1)(i). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." 11 C.F.R. § 100.7(a)(1)(i). Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan, which does not violate the limitations of section 441a(a), is a contribution when it is made and remains such to the extent that it remains unpaid. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. 11 C.F.R. § 100.7(a)(1)(i)(C). Finally, where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee. 2 U.S.C. § 432(e)(2); 11 C.F.R. §§ 102.2 and 102.7(d). See also AO 1985-33.

In this matter, the guaranteeing of a $100,000 loan by the candidate's parents appears to be in violation of 2 U.S.C. § 441a(a). Commission regulations prescribe that a loan, a loan guarantee, or any other form of security, is a contribution, and under the Act, 2 U.S.C. § 441a(a), contributions from individuals may not exceed $1,000. See 11 C.F.R. § 100.7(a)(1)(i). If the treasurer's representation that the parents signed the bank note as co-makers is accurate, then they may be liable for making excessive contributions. The acceptance of the $100,000 loan by the candidate, on behalf of the Committee and its treasurer, moreover, appears to be in violation of 2 U.S.C. § 441a(f), since the amount of the loan, on its face, exceeds Section 441a(a)'s contribution limitations. However, the terms of the loan and the legal obligation of the parties under the loan agreement are unknown at the present time. Accordingly, this office has prepared discovery requests in order to determine the specific liability of the parties to the loan under the Act.

Based on the foregoing considerations, this Office recommends that the Commission find reason to believe that Mustakas for Congress, Inc., Gary J. Bordes, as treasurer, and George Mustukas, III, violated 2 U.S.C. § 441a(f). Additionally, this Office recommends that the Commission find reason to believe that George Mustakas, II, and Collette Mustakas, the parents of the candidate, violated 2 U.S.C. § 441a(a). Finally, this Office recommends that the Commission approve the proposed letters and Interrogatories and Request for Production of Documents attached to this report.

IV. RECOMMENDATIONS

1. Find reason to believe that Mustakas for Congress, Inc., Gary J. Bordes, as treasurer, and George Mustukas, III violated 2 U.S.C. § 441a(f).

2. Find reason to believe that George Mustukas, II and Collette Mustakas, the parents of the candidate, violated 2 U.S.C. § 441a(a).

3. Approve the attached letters and interrogatories.

Lawrence M. Noble
General Counsel

11-3-89
Date

By: Lois G. Lerner
Associate General Counsel

Attachments
1. Letter from Gary J. Bordes
2. Proposed letters (3)
3. Factual and Legal Analysis (3)
4. Proposed Interrogatories and Request for Production of Documents (1)

Staff person: Craig Douglas Reffner

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Mustakas for Congress, Inc. and	)	MUR 2705
Gary J. Bordes, as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 8, 1989, the Commission decided by a vote of 5-0 to take the following actions in MUR 2705:

1. Find reason to believe that Mustakas for Congress, Inc., Gary J. Bordes, as treasurer, and George Mustakas, III violated 2 U.S.C. § 441a(f).

2. Find reason to believe that George Mustakas, II and Collette Mustakas, the parents of the candidate, violated 2 U.S.C. § 441a(a).

3. Approve the letters and interrogatories as recommended in the General Counsel's Report dated November 3, 1989.

Commissioners Aikens, Elliott, McDonald, McGarry and Thomas voted affirmatively for the decision. Commissioner Josefiak did not cast a vote.

Attest:

November 8, 1989
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Monday, November 6, 1989	11:59
Circulated to the Commission:	Monday, November 6, 1989	4:00
Deadline for vote:	Wednesday, November 8, 1989	4:00

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 16, 1989

Gary J. Bordes, as treasurer
Mustakas for Congress, Inc.
c/o BPS Enterprises, Inc.
4408 Sheves Drive, Suite E
Metairie, Louisiana 70006

RE: MUR 2705
Mustakas for Congress

Dear Mr. Bordes:

On April 10, 1989, the Federal Election Commission (the "Commission") found reason to believe that the Committee and you, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A), provisions of the Federal Election Campaign Act, as amended (the "Act"). A notification of the Commission's finding was sent to you on April 14, 1989. Based upon information obtained during its investigation, the Commission, on November 8, 1989, found reason to believe the Committee and you, as treasurer, violated 2 U.S.C. § 441a(f). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. <u>See</u> 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter.

Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Designation of Counsel Form
Procedures

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

Respondents: Mustakas for Congress, Inc. and
Gary J. Bordes, Treasurer

The Federal Election Campaign Act of 1971 limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A). In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make an expenditure on behalf of a candidate, in violation of any limitation imposed on contributions and expenditures under Section 441a. 2 U.S.C. § 441a(f).

The Act defines "contribution" to include loans, but excepts those loans made in accordance with applicable law and in the ordinary course of business by a state chartered or federally insured bank. 2 U.S.C. § 431(8)(B)(vii); 11 C.F.R. § 100.7(a)(1)(i). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." 11 C.F.R. § 100.7(a)(1)(i). Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan, which does not violate the limitations of section 441a(a), is a contribution when it is made and remains such to the extent that it remains unpaid. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. 11 C.F.R. § 100.7(a)(1)(i)(C). Finally, where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee. 2 U.S.C. § 432(e)(2); 11 C.F.R. §§ 102.2 and 102.7(d). See also Advisory Opinion 1985-33.

According to written and oral communication with Gary J. Bordes, the Committee's treasurer, George Mustakas, II and Collette Mustakas, the parents of the candidate, cosigned a $100,000 bank note with their son, who signed as the principle obligor, on August 2, 1988. The loan was received from the National Bank in New Orleans, Louisiana. In addition to cosigning the note, the parents of the candidate also secured the loan with certificates of deposit that totaled $100,000. After receiving the loan, the candidiate then gave the money to the Committee. Mr. Bordes further stated that in May, 1989, the parents of the candidate satisfied the bank note by liquidating their certificates of deposit, the collateral used to secure the loan.

The acceptance of the $100,000 loan by the candidate, on behalf of the Committee, and its treasurer, appears to be in violation of 2 U.S.C. § 441a(f), since the $100,000 loan, on its face exceeds Section 441(a)'s contribution limitations. Therefore, there is reason to believe that Mustakas for Congress, Inc. and Gary J. Bordes, as treasurer, violated 2 U.S.C. § 441a(f).

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 16, 1989

George Mustakas, III
c/o Gary J. Bordes, as treasurer
Mustakas for Congress, Inc.
4408 Sheves Drive, Suite E
Metairie, Louisiana 70006

RE: MUR 2705
Mustakas for Congress

Dear Mr. Mustakas:

On November 8, 1989, the Federal Election Commission (the "Commission") found reason to believe that you, George Mustakas, III, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. In addition, in order for the Office of General Counsel to complete its investigation into this apparent violation, the Commission has approved the attached Interrogatories and Request for Production of Documents.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission

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either proposing an agreement in settlement of the matter or recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Danny L. McDonald

Danny L. McDonald
Chairman

Enclosures
- Factual and Legal Analysis
- Designation of Counsel Form
- Procedures
- Interrogatories and Request for Production of Documents

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

Respondent: George Mustakas, III

The Federal Election Campaign Act of 1971 limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A). In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make an expenditure on behalf of a candidate, in violation of any limitation imposed on contributuions and expenditures under Section 441a. 2 U.S.C. § 441a(f).

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The Act defines "contribution" to include loans, but excepts those loans made in accordance with applicable law and in the ordinary course of business by a state chartered or federally insured bank. 2 U.S.C. § 431(8)(B)(vii); 11 C.F.R. § 100.7(a)(1)(i). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." 11 C.F.R. § 100.7(a)(1)(i). Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan, which does not violate the limitations of section 441a(a), is a contribution when it is made and remains such to the extent that it remains unpaid. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. 11 C.F.R. § 100.7(a)(1)(i)(C). Finally, where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee. 2 U.S.C. § 432(e)(2); 11 C.F.R. §§ 102.2 and 102.7(d). See also Advisory Opinion 1985-33.

It appears that, on August 2, 1988, George Mustakas, II and Collette Mustakas, the parents of the candidate, cosigned a $100,000 bank note with their son, who signed as the principle obligor. The loan was received from the Hiberia National Bank in New Orleans, Louisiana. In addition to cosigning the note, the parents of the candidate also secured the loan with certificates of deposit that totaled $100,000. After receiving the loan, the candidiate then gave the money to the Committee. It further appears that in May, 1989, the parents of the candidate satisfied the bank note by liquidating their certificates of deposit, the collateral used to secure the loan.

The acceptance of the $100,000 loan by the candidate, on behalf of the Committee, and its treasurer, appears to be in violation of 2 U.S.C. § 441a(f), since the $100,000 loan, on its face exceeds Section 441(a)'s contribution limitations. Therefore, there is reason to believe that George Mustakas, III violated 2 U.S.C. § 441a(f).

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
	)	MUR 2705
	)	

INTERROGATORIES AND REQUEST FOR PRODUCTION OF DOCUMENTS

TO: George Mustakas, III
c/o Gary J. Bordes, Treasurer
Mustakas for Congress, Inc.
4408 Sheves Drive, Suite E
Metairie, Louisiana 70006

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to October 1, 1989.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

**INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS**

1. State the total amount of contributions you received from your parents for your 1988 congressional campaign. Your answer should account for all instances where your parents provided funds, cosigned loans or provided security such as collateral, for a loan.

2. With respect to a bank loan, from Hiberia National Bank in New Orleans, Louisiana, made on or about August 2, 1988, state:

a) the terms of the loan, including the names of all the parties to the loan;

b) the forms of security which were used to secure the loan;

c) whether the loan is outstanding, and include the outstanding balance if any. In the alternative, if the loan is not outstanding, state the date the loan was satisfied and the circumstances surrounding its payoff; and

d) the purpose for which the loan was obtained and explain why your parents cosigned the loan.

3. Explain in detail what you did with the proceeds of the Hiberia National Bank loan referenced in question No. 2, above.

4. State other instances where your parents have cosigned or provided a guarantee on a loan for you.

Produce all documents that are referred to or relate to your answers to these questions.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 16, 1989

George Mustakas, II and Collette Mustakas
c/o Gary J. Bordes, as treasurer
Mustakas for Congress, Inc.
4408 Sheves Drive, Suite E
Metairie, Louisiana 70006

RE: MUR 2705
Mustakas for Congress

Dear Mr. & Mrs. Mustakas:

On November 8, 1989, the Federal Election Commission (the "Commission"), found reason to believe that you, George Mustakas, II and Collette Mustakas, violated 2 U.S.C. § 441a(a), a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information. In addition, in order for the Office of General Counsel to complete its investigation into this apparent violation, the Commission has approved the attached Interrogatories and Request for Production of Documents.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office along with answers to the enclosed questions within 15 days of receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

If you are interested in pursuing pre-probable cause conciliation, you should so request in writing. See 11 C.F.R. § 111.18(d). Upon receipt of the request, the Office of the General Counsel will make recommendations to the Commission either proposing an agreement in settlement of the matter or

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recommending declining that pre-probable cause conciliation be pursued. The Office of the General Counsel may recommend that pre-probable cause conciliation not be entered into at this time so that it may complete its investigation of the matter. Further, the Commission will not entertain requests for pre-probable cause conciliation after briefs on probable cause have been mailed to the respondent.

Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Danny L. McDonald
Chairman

Enclosures
Factual and Legal Analysis
Designation of Counsel Form
Procedures
Interrogatories and Request for Production of Documents

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

Respondents: George Mustakas, II and
Collette Mustakas

The Federal Election Campaign Act of 1971 limits the amount an individual can contribute to a candidate or an authorized political committee, with respect to any election for federal office, to an aggregate amount of $1,000. 2 U.S.C. § 441a(a)(1)(A). In addition, no officer or employee of a political committee shall knowingly accept a contribution made for the benefit or use of a candidate, or knowingly make an expenditure on behalf of a candidate, in violation of any limitation imposed on contributuions and expenditures under Section 441a. 2 U.S.C. § 441a(f).

The Act defines "contribution" to include loans, but excepts those loans made in accordance with applicable law and in the ordinary course of business by a state chartered or federally insured bank. 2 U.S.C. § 431(8)(B)(vii); 11 C.F.R. § 100.7(a)(1)(i). Commission regulations include a guarantee, endorsement, and any other form of security in the term "loan." 11 C.F.R. § 100.7(a)(1)(i). Further, loans may not exceed the contribution limitations of Section 441a and those that do are unlawful, even if they are repaid. A loan, which does not violate the limitations of section 441a(a), is a contribution when it is made and remains such to the extent that it remains unpaid. In addition, a loan is a contribution made by each endorser or guarantor of such loan, according to the portion of the total amount for which the endorser or guarantor is liable in a written agreement. 11 C.F.R. § 100.7(a)(1)(i)(C). Finally, where any loan is obtained by a candidate in connection with his or her campaign, the candidate shall be considered to have obtained such loan as an agent of his or her authorized committee. 2 U.S.C. § 432(e)(2); 11 C.F.R. §§ 102.2 and 102.7(d). See also Advisory Opinion 1985-33.

It appears that, on August 2, 1988, George Mustakas, II, and Collette Mustakas, the parents of the candidate, cosigned a $100,000 bank note with their son, who signed as the principle obligor, on August 2, 1988. The loan was received from the Hiberia National Bank in New Orleans, Louisiana. In addition to cosigning the note, the parents of the candidate also secured the loan with certificates of deposit that totaled $100,000. After receiving the loan, the candidiate then gave the money to the Committee. It further appears that in May, 1989, the parents of the candidate satisfied the bank note by liquidating their certificates of deposit, the collateral used to secure the loan.

The guaranteeing of a $100,000 loan by the parents for the candidate appears to be in violation of Section 441(a)'s contribution limitations. Therefore, there is reason to believe that George Mustukas, II, and Collette Mustakas, the parents of the candidate, violated 2 U.S.C. § 441a(a).

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
) MUR 2705
)

INTERROGATORIES AND REQUEST
FOR PRODUCTION OF DOCUMENTS

TO: George Mustakas, II and Collette Mustakas
c/o Gary J. Bordes, Treasurer
Mustakas for Congress, Inc.
4408 Sheves Drive, Suite E
Metairie, Louisiana 70006

In furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby requests that you submit answers in writing and under oath to the questions set forth below within 15 days of your receipt of this request. In addition, the Commission hereby requests that you produce the documents specified below, in their entirety, for inspection and copying at the Office of the General Counsel, Federal Election Commission, Room 659, 999 E Street, N.W., Washington, D.C. 20463, on or before the same deadline, and continue to produce those documents each day thereafter as may be necessary for counsel for the Commission to complete their examination and reproduction of those documents. Clear and legible copies or duplicates of the documents which, where applicable, show both sides of the documents may be submitted in lieu of the production of the originals.

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INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to October 1, 1989.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

**INTERROGATORIES AND
REQUEST FOR PRODUCTION OF DOCUMENTS**

1. In regard to George Mustakas, III's 1988 campaign for U.S. Congress, state whether either of you contributed to the campaign committee or to George Mustakas, III. List all such contributions and state the circumstances under which each contribution was made.

2. With regard to a bank loan from Hiberia National Bank in New Orleans, Louisiana, made on or about August 2, 1988, state:

a) the terms of the loan, including the names of all the parties to the loan;

b) the forms of security which were used to secure the loan;

c) whether the loan is outstanding, and include the outstanding balance if any. In the alternative, if the loan is not outstanding, state the date the loan was satisfied and the circumstances surrounding its payoff; and

d) the purpose for which the loan was obtained and explain why you cosigned the loan.

3. Have you cosigned any other loans used by George Mustakas, III, in connection with his campaign? If so identify said loans.

Produce all documents that are referred to or relate to your answers to these questions.

OGC 4820

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

89 DEC 11 AM 10:01

December 01, 1989

MUR 2705

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

89 DEC 11 PM 1:05

Federal Election Commission
999 E. Street NW
Washington, D.C. 20463
Attn: Mr. Craig Douglas Raffner

Dear Mr. Raffner:

To the best of my knowledge the Campaign Fund only had one checking account - Hibernia National Bank, 313 Carondelet Street, New Orleans, Louisiana, 70130. Since I was not authorized to sign on the account in question, the bank could not provide me with copies of the signature card.

All materials from the Federal Election Commission and Hibernia National Bank were mailed to 3445 N. Causeway Blvd. My mailing address at the time was 3000 Ridgelake Drive, Metairie, La. The only records maintained was a check book, which was dropped off to my office after the campaign was over. I did not have the authority to write checks nor make any deposits. I had no control over what the candidate had done. I believed the $100,000 in question was gifted to the candidate by his parents. This seemed appropriate because the candidate's parents had the financial strength to do so. I know the candidate and the candidate's parents received correspondence from the Commission. I have been priviledged regarding that correspondence.

Please consider these facts and if any additional information is needed please let me know.

Best regards,

Gary J. Bordes

Gary J. Bordes

93040980651

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 26, 1990

Gary J. Bordes, Treasurer
Mustakas for Congress, Inc.
4408 Sheves Drive, Suite E
Metairie, LA 70006

RE: MUR 2705

Dear Mr. Bordes:

On January 4, 1990, you requested that the Federal Election Commission permit Mustakas for Congress, Inc., ("Committee") to terminate pursuant to 2 U.S.C. § 433(d) and Section 102.3 of the Commission's Regulations. Because of the ongoing enforcement matter involving your Committee, this request has been denied. Therefore, you are reminded that the Committee must continue to file all the required reports with the Commission until such time as the enforcement matter has been closed as to the Committee.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 FEB -1 PM 12:13

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of)
) MUR 2705
Mustakas for Congress)

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On November 8, 1989, the Commission found reason to believe that George Mustakas, III, an unsuccessful 1988 candidate for U.S. Congress, violated 2 U.S.C. § 441a(f) by accepting contributions in excess of the limitations prescribed by the Federal Election Campaign Act of 1971.[1] On that same date, the Commission found reason to believe that George Mustakas, II, and Collette Mustakas, the parents of George Mustakas, III, violated 2 U.S.C. § 441a(a)(1)(A) by making an excessive contribution to their son, the candidate. On November 16, 1989, this Office notified the respondents of the Commission's findings and forwarded requests for discovery at that time. The respondents' replies to the Commission's discovery requests have not been forthcoming and are now overdue. Efforts by this Office to contact the respondents by telephone have been unsuccessful and messages left for the candidate have not been returned.[2]

---

1. The excessive contributions at issue here resulted from a $100,000 bank loan cosigned by the candidate's parents and secured by the parents' certificates of deposit.

2. On December 11, 1989, this Office received a letter from Gary Bordes, the treasurer of the Committee, Mustakas for Congress, Inc., who states that "the candidate and the candidate's parents received correspondence from the Commission." See Attachment 1.

In light of the foregoing, this Office recommends that the Commission approve the attached Subpoenas and Orders to George Mustakas, III, and to George Mustakas, II, and Collette Mustakas. The Orders and Subpoenas are substantively identical to the Interrogatories and Request for Production of Documents previously approved by the Commission.

II. **RECOMMENDATIONS**

1. Approve the attached Subpoena and Order to George Mustakas, III.

2. Approve the attached Subpoena and Order to George Mustakas, II, and Collette Mustakas.

3. Approve the attached letters.

Lawrence M. Noble
General Counsel

1-31-90
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Letter from Gary Bordes
2. Subpoenas/Orders
3. Proposed Letters

Staff Assigned: Craig Douglas Reffner

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2705
Mustakas for Congress)

CERTIFICATION

I, Marjorie W. Emmon, Secretary of the Federal Election Commission, do hereby certify that on February 5, 1990, the Commission decided by a vote of 5-0 to take the following actions in MUR 2705:

1. Approve the Subpoena and Order to George Mustakas, III, as recommended in the General Counsel's Report dated January 31, 1990.

2. Approve the Subpoena and Order to George Mustakas, II, and Collette Mustakas, as recommended in the General Counsel's Report dated January 31, 1990.

3. Approve the letters, as recommended in the General Counsel's Report dated January 31, 1990.

Commissioners Aikens, Elliott, Josefiak, McDonald and McGarry voted affirmatively for the decision; Commissioner Thomas did not cast a vote.

Attest:

2-6-90
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Thurs.,	Feb. 1, 1990	12:13 a.m.
Circulated to the Commission:	Thurs.,	Feb. 1, 1990	4:00 p.m.
Deadline for vote:	Mon.,	Feb. 5, 1990	4:00 p.m.

0CC9545

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 12, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George Mustakas, III
4408 Shore Drive, Suite E
Metairie, Louisiana 70006

RE: MUR 2705

Dear Mr. Mustakas:

On November 16, 1989, you were notified that the Federal Election Commission had found reason to believe you violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena and order requiring you to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. It is required that you submit all answers to questions under oath within 15 days of your receipt of this subpoena and order.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
Subpoena and Order
Discovery Requests

93040980656

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2705
)
)

SUBPOENA TO PRODUCE DOCUMENTS AND
ORDER TO SUBMIT WRITTEN ANSWERS

TO: George Mustakas, III
4408 Shore Drive, Suite E
Metairie, LA 70006

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 15 days of receipt of this Order and Subpoena.

MUR 2705
George Mustakas, III
Page 2

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this day of February 9, 1990.

Lee Ann Elliott

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachments
Interrogatories and Request for Production of Documents

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to October 1, 1989.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

93040980660

INTERROGATORIES

1. State the total amount of contributions you received from your parents for your 1988 congressional campaign. Your answer should account for all instances where your parents provided funds, cosigned loans or provided security, such as collateral, for a loan.

2. With respect to a bank loan, from Hiberia National Bank in New Orleans, Louisiana, made on or about August 2, 1988, state:

a) the terms of the loan, including the names of all the parties to the loan;

b) the forms of security which were used to secure the loan;

c) whether the loan is outstanding, and include the outstanding balance if any. In the alternative, if the loan is not outstanding, state the date the loan was satisfied and the circumstances surrounding its payoff; and

d) the purpose for which the loan was obtained and explain why your parents cosigned the loan.

3. Explain in detail what you did with the proceeds of the Hiberia National Bank loan referenced in question No. 2, above.

4. State other instances where your parents have cosigned or provided a guarantee on a loan for you.

REQUEST FOR PRODUCTION OF DOCUMENTS

Produce all documents that are referred to or relate to your answers to these questions.

OGC a544

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 12, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George Mustakas, II, and Collette Mustakas
c/o George Mustakas, III
4408 Shore Drive, Suite E
Metairie, Louisiana 70006

RE: MUR 2705

Dear Mr. & Mrs. Mustakas:

On November 16, 1989, you were notified that the Federal Election Commission had found reason to believe you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended.

Pursuant to its investigation of this matter, the Commission has issued the attached subpoena and order requiring you to provide information which will assist the Commission in carrying out its statutory duty of supervising compliance with the Federal Election Campaign Act of 1971, as amended, and Chapters 95 and 96 of Title 26, U.S. Code.

You may consult with an attorney and have an attorney assist you in the preparation of your responses to this subpoena and order. It is required that you submit all answers to questions under oath within 15 days of your receipt of this subpoena and order.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
Subpoena and Order
Interrogatories

9 3 0 4 0 9 8 0 6 6 2

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2705
)
)

SUBPOENA TO PRODUCE DOCUMENTS AND ORDER TO SUBMIT WRITTEN ANSWERS

TO: George Mustakas, II, and Collette Mustakas
c/o George Mustakas, III
4408 Shore Drive, Suite E
Metairie, LA 70006

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 15 days of receipt of this Order and Subpoena.

MUR 2705
George Mustakas, II and Collette Mustakas
Page 2

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this day of February 9, 1990.

Lee Ann Elliott

Lee Ann Elliott, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

Attachments
Interrogatories and Request for Production of Documents

93040980664

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to October 1, 1989.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

INTERROGATORIES

1. In regard to George Mustakas, III's 1988 campaign for U.S. Congress, state whether either of you contributed to the campaign committee or to George Mustakas, III. List all such contributions and state the circumstances under which each contribution was made.

2. With regard to a bank loan from Hiberia National Bank in New Orleans, Louisiana, made on or about August 2, 1988, state:

a) the terms of the loan, including the names of all the parties to the loan;

b) the forms of security which were used to secure the loan;

c) whether the loan is outstanding, and include the outstanding balance if any. In the alternative, if the loan is not outstanding, state the date the loan was satisfied and the circumstances surrounding its payoff; and

d) the purpose for which the loan was obtained and explain why you cosigned the loan.

3. Have you cosigned any other loans used by George Mustakas, III, in connection with his campaign? If so identify said loans.

REQUEST FOR PRODUCTION OF DOCUMENTS

Produce all documents that are referred to or relate to your answers to these questions.

9304090867

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 APR -2 PM 4:16

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE
APR 10 1990
EXECUTIVE SESSION

In the Matter of	)	
	)	
Mustakas for Congress, Inc., and	)	MUR 2705
Gary J. Bordes, as treasurer	)	
George Mustakas, III	)	
George Mustakas, II and	)	
Collette Mustakas	)	

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

This matter was generated through a complaint filed with the Federal Election Commission (the "Commission"). On April 10, 1989, the Commission found reason to believe that Mustakas for Congress Inc. (the "Committee"), and Gary J. Bordes, as treasurer, violated 2 U.S.C. § 434(a)(2)(A)(i) and 434(b)(3)(A) by failing to timely file the 1988 12-Day Pre-Primary Report and by failing to properly disclose the date that the Committee received $100,000 from the candidate, George Mustakas, III. Based upon information obtained during its investigation, the Commission, on November 8, 1989, found reason to believe that Mustakas for Congress, Inc., and Gary J. Bordes, as treasurer, and George Mustakas, III, violated 2 U.S.C. § 441a(f) and that George Mustakas, II, and Collette Mustakas, the parents of the candidate, violated 2 U.S.C. § 441a(a). The basis for the Commission's findings was derived from information supplied by the Committee and its treasurer which indicated that the candidate's parents provided a $100,000 contribution to their son who in turn gave the contribution to his campaign committee. By same date, the Commission approved separate interrogatories to be sent to the candidate and his parents.

After failing to receive responses to the Commission's findings and discovery requests, this Office attempted on several occasions to contact the Respondents. All attempts were unsuccessful. On February 5, 1990, the Commission authorized the issuance of a subpoena and order to George Mustakas, III, and a subpoena and order to George Mustakas, II, and Collette Mustakas. The return receipts reveal that the subpoenas and orders were received on February 23, 1990. Subsequently, on several occasions, a staff member from this Office has attempted unsuccessfully to contact the respondents to discuss their failure to respond to the Commission's discovery requests.

II. REQUEST FOR AUTHORIZATION OF SUBPOENA ENFORCEMENT

The investigation in this matter cannot be concluded without the answers to the questions submitted to George Mustakas, III, and to George Mustakas, II, and Collette Mustakas. The circumstances surrounding the $100,000 contribution, including the potential liability of each or both of the candidate's parents, must be determined. Additionally, it must be determined whether the candidate's parents provided the candidate with additional, unreported contributions.

According to 2 U.S.C. § 437d(b), the Commission may petition the United States District Court in case of a refusal to obey a subpoena or order issued by the Commission. Based on the foregoing analysis, this Office recommends that the Commission authorize this Office to institute a civil action to enforce the Commission's subpoenas and orders to George Mustakas, III, and to

George Mustakas, II, and Collette Mustakas.

III. RECOMMENDATION

1. Authorize the Office of the General Counsel to institute a civil action pursuant to 2 U.S.C. § 437d(b) to enforce the subpoena and order to George Mustakas, III, and the subpoena and order to George Mustakas, II and Collette Mustakas.

2. Approve the attached letters.

Date 4/2/90

Lawrence M. Noble
General Counsel

Attachment
Proposed letters

Staff assigned: Craig Douglas Reffner

9 3 0 4 0 9 8 0 6 7 0

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2705
Mustakas for Congress, Inc. and)
Gary J. Bordes, as treasurer)
George Mustakas, III)
George Mustakas, II and)
Collette Mustakas)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of April 10, 1990, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2705:

1. Authorize the Office of the General Counsel to institute a civil action pursuant to 2 U.S.C. § 437d(b) to enforce the subpoena and order to George Mustakas, III, and the subpoena and order to George Musatakas, II and Collette Mustakas.

2. Approve the letters attached to the General Counsel's report dated April 2, 1990.

Commissioners Aikens, Elliott, Josefiak, McDonald, McGarry, and Thomas voted affirmatively for the decision.

Attest:

4-11-90
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

93040980671

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George Mustakas, III
4408 Shores Drive, Suite E
Metairie, Louisiana 70006

MUR: 2705
George Mustakas, III

Dear Mr. Mustakas:

On November 16, 1989, you were notified that the Federal Election Commission (the "Commission") found reason to believe that you, George Mustakas, III, violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended (the "Act'). Pursuant to its investigation of this matter, the Commission issued an order and subpoena to you to provide answers to interrogatories and to provide documents relating to those interrogatories. The subpoena and order were received by you on February 23, 1990.

To date you have not responded to the subpoena and order. As a result of your failure to respond to the discovery requests, the Commission has authorized the Office of the General Counsel to institute a civil action for relief in the United States District Court to enforce the subpoena and order.

Should you have any questions, or should you wish to settle this issue prior to suit, please contact Robert Bonham, III, Acting Assistant General Counsel, at (202) 376-8200, within five days of your receipt of this letter.

Sincerely,

Lawrence M. Noble
General Counsel

93040980672

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 13, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George Mustakas, II and Collette Mustakas
c/o George Mustakas, III
4408 Shores Drive, Suite E
Metairie, Louisiana 70006

MUR: 2705
George Mustakas, II and
Collette Mustakas

Dear Mr. and Mrs. Mustakas:

On November 16, 1989, you were notified that the Federal Election Commission (the "Commission") found reason to believe that you, George Mustakas, II, and Collette Mustakas, violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended (the "Act"). Pursuant to its investigation of this matter, the Commission issued an order and subpoena to you to provide answers to interrogatories and to provide documents relating to those interrogatories. The subpoena and order were received by you on February 23, 1990.

To date you have not responded to the subpoena and order. As a result of your failure to respond to the discovery requests, the Commission has authorized the Office of the General Counsel to institute a civil action for relief in the United States District Court to enforce the subpoena and order.

Should you have any questions, or should you wish to settle this issue prior to suit, please contact Robert Bonham, III, Acting Assistant General Counsel, at (202) 376-8200, within five days of your receipt of this letter.

Sincerely,

Lawrence M. Noble
General Counsel

OGC 8030

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

90 OCT -1 AM 9:58

BEFORE THE FEDERAL ELECTION COMMISSION

IN THE MATTER OF * MUR 2705

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

90 OCT -1 AM 11:38

ANSWERS TO INTERROGATORIES AND REQUEST FOR PRODUCTION

1. In my opinion and with the advice of counsellors at the time, no contribution whatsoever was received from my parents. The loan in question was secured from the Hibernia National Bank in New Orleans. At no time did my parents, or anyone else for that matter, co-sign a loan for me. The loan in question was taken out in my name and signature alone. This was the only loan secured as regards your inquiry herein.

2. Without the actual documents available to me, the following is the best information I can provide. The actual documents, available from the bank itself, are the best evidence of their contents. It is requested that you secure, if the need is still present, copies of the original from the bank's records. The copy I possessed has apparently been misplaced in a recent office move.

a. The terms of the loan, from recollection, were indefinite, and required an ongoing payment of interest and/or principal due in the amount of approximately $1000.00 plus per month.

b. The loan was secured under my personal signature as security. As backup, the certificates of deposit noticed and reported were also utilized. I did not secure, and would not accept, the assistance of any outside sources, such as political action committees, state or national political party contribution sources, etc. My campaign, in essence, was self-financed.

c. The loan in question is no longer outstanding, as has already been reported to you. The loan was satisfied sometime around Dec. of 1989, the actual documents themselves would provide a more accurate date. The loan to that date had been paid off with my personal funds. Thereafter, a personal loan to me was made to pay off the remainder. The intent then, as it is now, was to pay the loan off personally. If there has been a violation of law, which is specifically denied, then the intent was purely unintentional and unknown to the parties involved. My position, then as it is now, was to take no monies from politically active third-parties.

d. The loan was secured in advance of a run for political office. The monies, not even then available, were to be made available only in the event that I should decide, and in fact, need them rapidly for a political campaign or any other purpose. In fact, to my knowledge, no advance deposits were actually made into a campaign account. A commitment from the bank only was secured, as is available under Louisiana law. I have never been a candidate for political office, state or federal, in the past; therefore, the method utilized for campaign financing seemed, at the time, the most honest and politically unaligned. I, at the time, had several signature loans with the bank in question for monies not yet on deposit, but available to me for any purpose.

e. The proceeds of the loan in question were spent on later campaign expenses, to the best of my knowledge. Again, a full accounting should have been presented to you in previous reports. You should also be aware that the campaign account, as well as the campaign, was closed-out sometime ago. I have learned that personal financing just can not compete with the contributions my opponent received from defense contractor political action committees, and state and federal party contributions, which apparently have no limitation, etc.

f. There may have been instances in my lifetime where my parents have co-signed a loan for me, but none come to mind at the moment. It is not unusual, in my family experience, for my parents to make personal loans to me. It is their position, and mine, that interest payments, etc. are better kept within the family rather than in the hands of third-parties. This has been a practice that also included my siblings as well. Again, to my knowledge no one co-signed a loan for me as regards your inquiry herein. The intent was to have the commitment as my sole responsibility, and that has been the case to date.

I do not mind assisting the commission in its activities, but I do not wish to participate in the persecution of myself or anyone else for that matter. As a prosecutor, for fifteen years, I am more than fully aware of the potential for abuse that can exist in a situation such as this. In fact, as I understand it this entire investigation has been instigated at the behest of my former opponent; I guess that is his privilege. However, the utilization of governmental processes to favor some individuals and to injure others is not, or should not be, envisioned in the activities of any governmental entity. I do ask this question: Why is it that unlimited contributions can be received from political parties by its candidates without an "accounting" to federal election scrutiny and sanction? It has been my impression that the commission has been asked on numerous occasions to remedy this obvious inequity in the so-called system. At this point, there seems to be an unfortunate policy against those who have not been part of the political system, but who wish to join and participate. Is not greater participation what the commission is to ultimately seek and achieve?

Respectfully submitted:

____

GEORGE MUSTAKAS

EIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

91 JAN 30 AM 10:59

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2705
George Mustakas, et al.	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On November 8, 1989, the Commission found reason to believe that Mustakas for Congress, Inc., and Gary J. Bordes, as treasurer (the "Committee"), and George Mustakas (the "Candidate"), violated 2 U.S.C. § 441a(f) in connection with a $100,000 loan received by the Candidate on behalf of the Committee. Since it appeared that the candidate's parents provided the the loan to their son, the Commission also found reason to believe that the candidate's parents violated 2 U.S.C. § 441a(a) and approved separate discovery requests to the Candidate and his parents.

Neither the Candidate nor the Candidate's parents responded to the Commission's informal discovery requests or the Subpoenas and Orders issued by the Commission seeking compliance with its discovery requests. Accordingly, the Commission authorized, and the General Counsel instituted, a civil suit pursuant to 2 U.S.C. § 437d(b) to enforce the Subpoenas and Orders. FEC v. Mustakas, No. 90-2525 (D.La. filed July 13, 1990). Thereafter, on October 1, 1990, this Office received a response from the candidate which purportedly addressed the Commission's discovery requests. Attachment B (Candidate's Response). That response, however, was defective in three respects: it was unsigned; it was not sworn to as required by the subpoena; and it was not

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accompanied by any documents as requested by the subpoena. Id.

II. **ANALYSIS**

Based upon the information presently available, it appears that the Candidate received a $100,000 loan from Hibernia National Bank, in New Orleans, which was "collateralized by Certificates of Deposit of the candidate's parents." See Response of Gary J. Bordes, Treasurer of Mustakas for Congress, dated June 2, 1989. In subsequent responses the Committee's treasurer further stated that "the parents liquidated their certificate of deposit to pay the bank note" and that "the $100,000 in question was gifted to the candidate by his parents." See Responses of Gary J. Bordes, Treasurer of Mustakas for Congress, dated June 15, 1989 and December 1, 1989. In his response, however, the Candidate states that "no contribution whatsoever was received from my parents" and that the "loan in question was taken out in my name and signature alone." Attachment B at 1.

Given the conflicting information received thus far, the exact nature of the loan remains unclear. Additionally, despite written communications from this Office, neither the Candidate nor his parents have indicated any willingness to cooperate in this investigation. In fact, it was discerned during conversations with the Committee's treasurer, that George Mustakas apparently went to London, England for an unspecified period of time. Thus, an inspection of the bank's loan documents appears to be the remaining avenue for ascertaining whether the parents were involved in obtaining the $100,000 loan. Therefore, this Office recommends that the Commission approve a Subpoena and Order to Hibernia National Bank, the banking institution alleged to be the source of the loan in question.

III. **RECOMMENDATIONS**

Approve the appropriate letters and the attached Subpoena and Order to Hibernia National Bank.

Lawrence M. Noble
General Counsel

1/29/91
Date

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments
A. Subpoena and Order
B. Candidate's Response

Staff assigned: Craig Douglas Reffner

93040980679

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
George Mustakas, et al.	)	MUR 2705

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 1, 1991, the Commission decided by a vote of 5-0 to approve the appropriate letters and the Subpoena and Order to Hibernia National Bank, as recommended in the General Counsel's Report dated January 29, 1991.

Commissioners Aikens, Elliott, Josefiak, McGarry, and and Thomas voted affirmatively for the decision; Commissioner McDonald did not cast a vote.

Attest:

2-1-91
Date

for Hilda Arnold
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Wed., Jan. 30, 1991	10:59 a.m.
Circulated to the Commission:	Wed., Jan. 30, 1991	4:00 p.m.
Deadline for vote:	Fri., Feb. 1, 1991	4:00 p.m.

dr

93040980680

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 12, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George Mustakas, Esq.
4408 Shores Drive, Suite E
Metairie, Louisiana 70006

RE: MUR 2705
George Mustakas

Dear Mr. Mustakas:

Records or information concerning your transactions held by the financial institution named in the attached subpoena and order are being sought by this agency in accordance with the Right to Financial Privacy Act of 1978 for the following purpose: to investigate possible violations of the Federal Election Campaign Act of 1971, as amended, by you in connection with a loan you received.

If you desire that such records or information not be made available, you must:

1. Fill out the accompanying motion paper and sworn statement or write one of your own, stating that you are the customer whose records are being requested by the Commission and either giving the reasons you believe that the records are not relevant to the legitimate law enforcement inquiry stated in this notice or any other legal basis for objecting to the release of the records.

2. File the motion and statement by mailing or delivering them to the clerk of any one of the following United States District Courts: the United States District Court for the District of Louisiana or the United States District Court for the District of Columbia.

93040980681

3. Serve the Commission by mailing or delivering a copy of your motion and statement to: Federal Election Commission, Office of the General Counsel, 999 E Street, N.W., Washington, D.C. 20463.

4. Be prepared to come to court and present your position in further detail.

5. You do not need a lawyer, although you may wish to employ one to represent and protect your rights.

If you do not follow the above procedures, upon the expiration of ten days from the date of service or 14 days from the date of mailing of this notice, the records or information requested therein will be made available. These records may be transferred to other Government authorities for legitimate law enforcement inquiries, in which event you will be notified after the transfer.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY:

Lois G. Lerner
Associate General Counsel

Enclosures
Subpoena and Order to Hibernia National Bank
Motion to Quash Subpoena and Order
Affidavit

cc: George Mustakas
4239 S. Claiborne
New Orleans, Louisiana 70125

George Mustakas
25509 Highway 190
Big Branch, Louisiana

UNITED STATES DISTRICT COURT
FOR

George Mustakas, III, et al., Petitioner	)	MOTION TO QUASH COMMISSION SUBPOENA AND ORDER
v.	)	
THE FEDERAL ELECTION COMMISSION Respondent	)	

MOTION TO QUASH COMMISSION SUBPOENA AND ORDER

This matter comes before the court pursuant to 12 U.S.C. § 3401 et. seq., Right to Financial Privacy Act of 1978. Petitioner, George Mustakas, requests this court to quash a subpoena and order of the Federal Election Commission which seeks to obtain certain bank documents and information relating to accounts maintained by Petitioner.

In support of this application, Petitioner swears to the following:

1. Petitioner received a loan from Hibernia National Bank of New Orleans, Louisiana.

2. The Commission seeks financial records relating to the above loan as part of its investigation pursuant to 2 U.S.C. § 437g.

93040980683

UNITED STATES DISTRICT COURT
FOR

George Mustakas, III, et al., Petitioner

v.

THE FEDERAL ELECTION COMMISSION Respondent

MOTION TO QUASH COMMISSION SUBPOENA AND ORDER

AFFIDAVIT

County
State of New Orleans

George Mustakas, being duly sworn, makes the following his affidavit and states:

1. I hereby affirm that all of the statements in the Motion to Quash Commission Subpoena/Order are true and accurate to the best of my knowledge and belief.

2. Further the affiant sayeth not.

____
George Mustakas

Subscribed and sworn to before me this ______________ day of ____________________, 1991.

____
Notary Public

My Commission expires ____________________.

3. Petitioner believes the Commission is not entitled to these records because

George Mustakas

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 12, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jerry L. Bidleman
Executive Vice President, Loan Administration
Hibernia National Bank
P. O. Box 61540
New Orleans, Louisiana 70161

RE: MUR 2705

Dear Mr. Bidleman:

Enclosed is a Federal Election Commission subpoena to Produce Documents and Order to Submit Written Answers directed to the Hibernia National Bank. **The Right to Financial Privacy Act of 1978 permits the customer whose records are sought 10 days from the date of receipt of the Subpoena and Order to move to quash them. Upon the expiration of this period, the Commission will notify you that it has complied with the Right to Financial Privacy Act. In the absence of judicial intervention, it is then your obligation to comply with the terms of the Subpoena and Order. See 12 U.S.C. §§ 3405 and 3411.**

Please be advised that 2 U.S.C. § 437g(a)(12) prohibits making public any Commission investigation without the written consent of the person with respect to whom such investigation is made. You are advised that no such consent has been given in this case.

If you have any questions please contract Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY:
Lois G. Lerner
Associate General Counsel

Enclosures
Subpoena and Order

93040980686

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)) MUR 2705)

SUBPOENA TO PRODUCE DOCUMENTS
ORDER TO SUBMIT WRITTEN ANSWERS

TO: Jerry L. Bidleman
Executive Vice President, Loan Administration
Hibernia National Bank
P. O. Box 61540
New Orleans, Louisiana 70161

Pursuant to 2 U.S.C. § 437d(a)(1) and (3), and in furtherance of its investigation in the above-captioned matter, the Federal Election Commission hereby orders you to submit written answers to the questions attached to this Order and subpoenas you to produce the documents requested on the attachment to this Subpoena. Legible copies which, where applicable, show both sides of the documents may be substituted for originals.

Such answers must be submitted under oath and must be forwarded to the Office of the General Counsel, Federal Election Commission, 999 E Street, N.W., Washington, D.C. 20463, along with the requested documents within 10 days of your receipt of the Commission's Certification of Compliance with the Right to Financial Privacy Act.

MUR 2705 - Subpoena and Order
Jerry L. Bidleman
Executive Vice President, Loan Administration
Hibernia National Bank
Page 2

WHEREFORE, the Chairman of the Federal Election Commission has hereunto set his hand in Washington, D.C. on this 8th day of February, 1991.

John Warren McGarry, Chairman
Federal Election Commission

ATTEST:

Marjorie W. Emmons
Secretary to the Commission

Attachments
Document Request and Questions

INSTRUCTIONS

In answering these interrogatories and request for production of documents, furnish all documents and other information, however obtained, including hearsay, that is in possession of, known by or otherwise available to you, including documents and information appearing in your records.

Each answer is to be given separately and independently, and unless specifically stated in the particular discovery request, no answer shall be given solely by reference either to another answer or to an exhibit attached to your response.

The response to each interrogatory propounded herein shall set forth separately the identification of each person capable of furnishing testimony concerning the response given, denoting separately those individuals who provided informational, documentary or other input, and those who assisted in drafting the interrogatory response.

If you cannot answer the following interrogatories in full after exercising due diligence to secure the full information to do so, answer to the extent possible and indicate your inability to answer the remainder, stating whatever information or knowledge you have concerning the unanswered portion and detailing what you did in attempting to secure the unknown information.

Should you claim a privilege with respect to any documents, communications, or other items about which information is requested by any of the following interrogatories and requests for production of documents, describe such items in sufficient detail to provide justification for the claim. Each claim of privilege must specify in detail all the grounds on which it rests.

Unless otherwise indicated, the discovery request shall refer to the time period from January 1, 1988 to present.

The following interrogatories and requests for production of documents are continuing in nature so as to require you to file supplementary responses or amendments during the course of this investigation if you obtain further or different information prior to or during the pendency of this matter. Include in any supplemental answers the date upon which and the manner in which such further or different information came to your attention.

93040980689

DEFINITIONS

For the purpose of these discovery requests, including the instructions thereto, the terms listed below are defined as follows:

"You" shall mean the named respondent in this action to whom these discovery requests are addressed, including all officers, employees, agents or attorneys thereof.

"Persons" shall be deemed to include both singular and plural, and shall mean any natural person, partnership, committee, association, corporation, or any other type of organization or entity.

"Document" shall mean the original and all non-identical copies, including drafts, of all papers and records of every type in your possession, custody, or control, or known by you to exist. The term document includes, but is not limited to books, letters, contracts, notes, diaries, log sheets, records of telephone communications, transcripts, vouchers, accounting statements, ledgers, checks, money orders or other commercial paper, telegrams, telexes, pamphlets, circulars, leaflets, reports, memoranda, correspondence, surveys, tabulations, audio and video recordings, drawings, photographs, graphs, charts, diagrams, lists, computer print-outs, and all other writings and other data compilations from which information can be obtained.

"Identify" with respect to a document shall mean state the nature or type of document (e.g., letter, memorandum), the date, if any, appearing thereon, the date on which the document was prepared, the title of the document, the general subject matter of the document, the location of the document, the number of pages comprising the document.

"Identify" with respect to a person shall mean state the full name, the most recent business and residence addresses and the telephone numbers, the present occupation or position of such person, the nature of the connection or association that person has to any party in this proceeding. If the person to be identified is not a natural person, provide the legal and trade names, the address and telephone number, and the full names of both the chief executive officer and the agent designated to receive service of process for such person.

"And" as well as "or" shall be construed disjunctively or conjunctively as necessary to bring within the scope of these interrogatories and requests for the production of documents any documents and materials which may otherwise be construed to be out of their scope.

ATTACHMENT TO SUBPOENA AND ORDER

The attached Subpoena to Produce Documents and Order to Submit Written Answers to Questions has been issued by the Federal Election Commission under the authority of 2 U.S.C. § 437g(a)(2). You are required to submit written answers to the questions and the requested documents within 15 days of your receipt of the Commission's Certification of Compliance with the Right to Financial Privacy Act.

You are hereby advised of the provisions of 2 U.S.C. § 437g(a)(12) which prohibits anyone from making public any Commission investigation and provides for a fine up to $5,000 for a violation of that provision.

Please set forth answers in the spaces provided below each question (attaching supplemental pages as required) and return this original with an original affidavit signed by the appropriate bank official attesting to the truth of the answers. The affidavit must be sworn to and notarized.

Considering the possible application of the Right to Financial Privacy Act of 1978, please do not provide any information not requested by the questions.

1. Identify all loans made to George Mustakas. Include in your answer the purpose and terms of each loan; the names of all the parties to the loan; the forms of security used to secure each loan; and whether each loan is outstanding and, if so, include the outstanding balance. In the alternative, if any loan is not outstanding, state the date the loan was satisfied and the circumstances surrounding its payoff.

Response:

2. Produce all documents that support your answers to the above question. Include in your response copies of all bank records evidencing loans to George Mustakas.

OGC 0009

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 FEB -3 AM 8:11

5711 Pine Arbor Dr
Houston, Texas 77066-2328
January 29, 1991

Fedearl Election Commission
V.Collen Miller, Attny.
Washington, D.C. 20463

MUR 2705

Re:FEC v. Mustakas, CA No. 90-2525,Sect. A,
Mag. 4 (D. La.)

RECEIVED
FEDERAL ELECTION COMMISSION
91 FEB -4 PM 3:53

Dear Ms. V.Colleen Miller:

Answers to Interrogatories & Request for Production

1. With reference to your letter December 31, 1990, for possible violation of Federal Election laws.
Our donation on August 08, 1988, check No.4126 for the sum of $256.00 used to pay for wine at his rally. And the only donation ever made.

2.

2. Have no knowledge of "Bank Loan", we knew that our son was q quitting his job, and settling a lot of Personal matters, t taxes, office and etc. He had just won a large jury judgement , and momentarilyneeded additionalcollateral to extend his existingcollateral mortgage line at the bank, he was also considering running for office at the time and was trying t to decide.

A. We have no knowledgeof any of any expenditures or "Bank Loan", but did obtain the enclosed copies of a collateral mortgage line of credit from the bank concerned. The documents should speak for them selves.

B: see A above.

C. See A above: to assist much later,we suggested to our son that we be allowedto surrender the collateral , he was still awaiting the funds from his judgement & (on appeal), and was hving difficulties.

D. See A Above: Co-signed no loan.

3. Have co-signed no loans.

Production: Enclosed find copies of documents forwarded by the Bank concerned. Same should prove to be self explanatory

Sincerely,

Carlota C. Mustakas

Carlota C. Mustakas

Certified Mail
Return receipt requested

CCM/gtm
File

9 3 0 4 0 9 8 0 6 9 2

COPIES OF THE BANK RECORDS
SUBMITTED WITH THIS RESPONSE
HAVE BEEN REMOVED FROM THE PERMANENT FILE

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 1, 1991

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jerry L. Bidleman, Executive Vice President
Loan Administration
Hibernia National Bank
P. O. Box 61540
New Orleans, Louisiana 70161

RE: MUR 2705

Dear Mr. Bidleman:

On February 12, 1991, you were notified of a Federal Election Commission Subpoena to Produce Documents and Order to Submit Written Answers directed to you at the Hibernia National Bank. Enclosed is a Certification of Compliance with the Right to Financial Privacy Act.

You are reminded that in the absence of judicial intervention, it is your obligation to comply with the terms of the Subpoena and Order. *See* 12 U.S.C. §§ 3405 and 3411. Accordingly, please forward the requested materials to this Office within ten (10) days.

If you have any questions please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure

93040980694

CERTIFICATION OF COMPLIANCE WITH THE RIGHT TO FINANCIAL PRIVACY ACT

TO: Jerry L. Bidleman, Executive Vice President
Loan Administration
Hibernia National Bank
P. O. Box 61540
New Orleans, Louisiana 70161

FROM: Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: MUR 2705

I hereby certify, pursuant to Section 1103(b) of the Right to Financial Privacy Act of 1978, 12 U.S.C. § 3403(b), that the provisions of the Act have been complied with as to the Subpoena to Produce Documents and Order to Submit Written Answers forwarded to you in the above-captioned matter, responses to which are being ordered pursuant to 12 U.S.C. §§ 3402 and 3405.

Lawrence M. Noble
General Counsel

Date 3/1/91

BY: LG Lerner
Lois G. Lerner
Associate General Counsel

9 3 0 4 0 9 8 0 6 9 5

OGC 0392

HIBERNIA
National Bank

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 MAR 18 AM 11:51

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

91 MAR 18 PM 3:44

March 13, 1991

VIA TELECOPY

Craig Douglas Reffner
Office of the General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: George Mustakas - Subpoena
MUR 2705

Dear Mr. Reffner:

Per our telephone conversation this date, please accept this letter as our request for an extension of time to respond to the above-referenced. Due to the back-log of subpoenas and research involved in locating these documents Hibernia National Bank is unable to produce bank records by March 18, 1991. I would like an extension until April 1, 1991.

Please call me at (504) 587-3295 with your approval of this request. Thank you for your cooperation and assistance in this matter.

Cordially,

Paulette M. Simoneaux

Paulette M. Simoneaux
Paralegal
Corporate Law Division

PMS/hs
s:mustakas

93040980696

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 21, 1991

Paulette M. Simoneaux, Paralegal
Hibernia National Bank
Corporate Law Division, 16th Floor
P. O. Box 61540
New Orleans, Louisiana 70161

RE: MUR 2705
George Mustakas

Dear Ms. Simoneaux:

This is in response to your letter dated March 13, 1991, which we received on March 14, 1991, requesting an extension of two weeks to respond to the Commission's subpoena of bank records. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on April 1, 1991.

If you have any questions, please contact Craig Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

CGC 0578

HIBERNIA
National Bank

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 APR -1 AM 11:04

MUR 2705

March 18, 1991

Office Of The General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Subpoena
George Mustakas

Dear Sir:

Enclosed please find copies of documents for the below listed loans which were requested in the captioned matter. I will forward the remaining documents upon receipt of same.

91 APR -1 PM 3:58

Sincerely,

Vetter O'Neal

Vetter O'Neal
Subpoena/Summons Coordinator

9 3 0 4 0 9 8 0 6 9 8

POST OFFICE BOX 61540 • NEW ORLEANS, LOUISIANA 70161 • 504 584 5552

HIBERNIA
National Bank

March 18, 1991

Office Of The General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Subpoena
George Mustakas

Dear Sir:

In regards to the Response requested in the Attachment to Subpoena and Order, listed below are the answers:

Loan #

1. Purpose: Jim Brown Campaign
2. Terms: 24 payments at $243.94
3. Names: George Mustakas
4. Security: Unsecured
5. Balance: $3,741.44

Loan #

This loan was made to George Mustakas, II on 7/13/88. It was secured by CD # in the name of George T. and Carlotta C. Mustakas in amount of $50,000.00, and CD # in name of Carlotta C. Mustakas or George T. Mustakas.

Sincerely,

Vetter O'Neal

Vetter T. O'Neal
Subpoena/Summons Coordinator

POST OFFICE BOX 61540 • NEW ORLEANS, LOUISIANA 70161 • 504-586-5552

COPIES OF THE BANK RECORDS
SUBMITTED WITH THIS RESPONSE
HAVE BEEN REMOVED FROM THE PERMANENT FILE

Coc 0667

HIBERNIA
National Bank

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 APR -8 PM 12:41

April 2, 1991

91 APR -3 AM 4:04

Office Of The General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Subpoena
George Mustakas

MUR
2705

Dear Sir:

Enclosed please find copies of the below listed loan which was requested in the captioned matter. This satisfies the request of your subpoena.

Sincerely,

Vetter O'Neal

Vetter O'Neal
Subpoena/Summons Coordinator

93040980701

POST OFFICE BOX 61540 • NEW ORLEANS, LOUISIANA 70161 • 504 586 5552

COPIES OF THE BANK RECORDS
SUBMITTED WITH THIS RESPONSE
HAVE BEEN REMOVED FROM THE PERMANENT FILE

RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

91 APR 12 PM 12:33

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
George Mustakas, <u>et</u> <u>al</u>.) MUR 2705)

SENSITIVE

COMPREHENSIVE INVESTIGATIVE REPORT #2

On February 1, 1991, the Commission approved a Subpoena and Order to Hibernia National Bank seeking bank documents concerning a $100,000 loan allegedly provided to George Mustakas, a 1988 federal candidate. The loan was apparently collateralized by certificates of deposit owned by the candidate's parents in violation of 2 U.S.C. § 441a(a). The Bank was provided with the Commission's Subpoena and Order on February 12, 1991, and with a Certification of Compliance with the Right to Financial Privacy on March 12, 1991. On March 21, 1991, the Bank was granted an extension of time to respond to the Commission's Subpoena and Order and on April 1, 1991, and April 8, 1991, responses were received from the Bank. This Office will submit a report with appropriate recommendations to the Commission after the information provided by the Bank has been reviewed and analyzed.

Lawrence M. Noble
General Counsel

4/11/91
Date

BY: [signature]
Lois G. Lerner
Associate General Counsel

Staff assigned: Craig Douglas Reffner

9304090703

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

TO: LAWRENCE NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DONNA ROACH
SECRETARY OF THE COMMISSION

DATE: APRIL 16, 1991

SUBJECT: MUR 2705 - COMPREHENSIVE INVESTIGATIVE REPORT #2 DATED APRIL 11, 1991.

The above-captioned matter was received in the Commission Secretariat at 12:33 p.m. on April 12, 1991 and circulated on a 24-hour no-objection basis at 11:00 a.m. on Monday, April 15, 1991.

There were no objections to the above-captioned matter.

93040980704

#2

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

91 JUL 15 PM 5:01

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)		
	)	MUR 2705	**SENSITIVE**
George Mustakas, et al.	)		

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to all the Respondents, based on the assessment of the information presently available.

7/15/91
Date

Lawrence M. Noble
General Counsel

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F.E.C.
SECRETARIAT

FEDERAL ELECTION COMMISSION 91 JUL 25 PM 1:10
WASHINGTON, D.C. 20463

July 25, 1991

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

SUBJECT: MUR 2705
George Mustakas, et al.

Attached for the Commission's review are the briefs stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. Copies of these briefs and the letters notifying the respondents of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe were mailed on July 25, 1991. Following receipt of the respondents' replies to these notices, this Office will make a further report to the Commission.

Attachments
A. Briefs (3)
B. Letters to respondents (3)

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FEDERAL ELECTION COMMISSION
WASHINGTON D C 20463

July 25, 1991

Gary J. Bordes, Treasurer
Mustakas for Congress
3400 W. Esplande Avenue, Suite B
Metairie, Louisiana 70006

RE: MUR 2705
Mustakas for Congress and
Gary J. Bordes, as treasurer

Dear Mr. Bordes:

Based on a complaint filed with the Federal Election Commission on September 28, 1988, and information supplied by you, the Commission, on April 10, 1989, found that there was reason to believe Mustakas for Congress ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A), and instituted an investigation of this matter. Subsequently, on November 8, 1989, the Commission found reason to believe that the Committee and you, as treasurer, violated 2 U.S.C. § 441a(f).

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

93040980707

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2705
Mustakas for Congress and)
Gary J. Bordes, as treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On April 10, 1989, the Federal Election Commission ("Commission") found reason to believe that Mustakas for Congress and Gary J. Bordes, as treasurer (collectively referred to as the "Committee"), violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A). The basis for the Commission's finding concerned the Committee's failure to file the 1988 12 day pre-election report for Louisiana's 1988 primary election in a timely manner and the Committee's failure to itemize a $100,000 contribution from the candidate on that disclosure report.

Subsequently, the Committee provided itemization information which showed that the $100,000 contribution was actually a loan received by the candidate from Hibernia National Bank (the "Bank") and collateralized by certificates of deposit owned by the candidate's parents. Based on this information, the Commission, on November 8, 1989, found reason to believe that the Committee violated 2 U.S.C. § 441a(f). Because neither the candidate nor his parents responded to the Commission's discovery requests, the Commission authorized the filing of a subpoena enforcement action on April 10, 1990. After the commencement of that suit, information was obtained from the Respondents and the Bank, which obviated the need to pursue the subpoena enforcement action. Accordingly, the General Counsel voluntarily dismissed that action on April 30, 1991.

II. ANALYSIS

A. Reporting Violations

Pursuant to 2 U.S.C. § 434(a)(2)(A)(i), the principal campaign committee of a candidate for the House of Representatives or for the Senate, shall file, during any calendar year in which there is a regularly scheduled election for which such candidate is seeking election, a pre-election report. This pre-election report shall be filed no later than the twelfth day before (or posted by registered or certified mail no later than the fifteenth day before) any election in which such candidate is seeking nomination for election, and shall be complete as of the twentieth day before such election. 2 U.S.C. § 434(a)(2)(A)(i). Pursuant to Section 434(b)(3)(A), each report filed by a committee must include an itemization of each person's contribution which aggregates in excess of $200 within the calendar year, by identifying the contributor together with the amount of the contribution and the date received.

George Mustakas was a candidate in Louisiana's 1988 primary election, held on October 1, 1988. Under Section 434, his principal campaign committee, Mustakas for Congress, was required to file a 12 day pre-election report no later than the twelfth day before that primary election. Thus, the 1988 12 day pre-election report was due on September 19, 1988. A review of the public record, however, shows that the Committee filed the

12 day pre-election report on October 14, 1988, some twenty-five (25) days late, which has been acknowledged by the Committee's treasurer. Additionally, a review of the 1988 12 day pre-primary report in question shows the receipt of a $100,000 contribution from the candidate. Although the Respondents disclosed this contribution on the detailed summary page of the report in question, they failed to itemize the contribution properly, by not specifying the identity of the contributor, the amount received or the date of receipt. Accordingly, there is probable cause to believe that the Committee violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A).

B. Excessive Contribution

Under the Act, no person may make contributions to any candidate and his or her campaign committees with respect to any election for Federal office which, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). Additionally, the Act prohibits candidates and their campaign committees from knowingly accepting such contributions, 2 U.S.C. § 441a(f), and provides that any candidate who receives a loan or contribution for use in connection with his or her campaign shall be considered, for purposes of the Act, as having received the loan or contribution as an agent of his or her authorized committee. 2 U.S.C. § 432(e)(2). The Act defines a contribution to include a loan, and a loan includes a guarantee, endorsement, and any other form of security. 2 U.S.C. § 431(8); 11 C.F.R. § 100.7(a)(1)(i). A loan becomes a contribution when it is made, remains such to the extent it remains unpaid and is subject to the contribution limitations of the Act. 11 C.F.R. § 100.7(a)(1)(i)(B). Moreover, a loan which exceeds the contribution limits of the Act is unlawful, even if it is repaid. 11 C.F.R. § 100.7(a)(1)(i)(A). Additionally, each endorser or guarantor of a loan shall be deemed to have contributed that portion of the total amount of the loan for which he or she is liable in a written agreement. 11 C.F.R. § 100.7(a)(1)(i)(C).

The Commission's regulations explicitly permit a candidate for Federal office to make unlimited expenditures from his or her personal funds, including contributions to the candidate's principal campaign committee. 11 C.F.R. § 110.10(a). The Commission's regulations define personal funds to include "gifts of a personal nature which had been customarily received prior to candidacy. . . ." 11 C.F.R. § 110.10(b)(2). A candidate's family members, however, are subject to the same contribution limitations as other individuals. 2 U.S.C. § 441a(a).

At issue is a $100,000 contribution which, as noted above, the Committee disclosed on the 1988 12 day pre-election report but failed to properly itemize. Information produced during the Commission's investigation clearly shows that the contribution in question is a bank loan, received by the candidate and collateralized by certificates of deposit owned by the candidate's parents. The available information further shows that the certificates of deposit were subsequently liquidated to satisfy the loan. A review of records provided by the Bank confirms that a $100,000 loan was made to the candidate and collateralized by two $50,000 certificates of deposit, both in the names of his parents.

While the existence of the loan as well as its underlying collateralization have been acknowledged, it has been asserted that the candidate's parents provided the security for the loan as a gift to their son. This assertion, however, is unavailing here as the Act specifically defines a contribution to include gifts or loans, the latter of which includes a guarantee or any other form of security. Moreover, since a review of the Bank's records shows that the purpose of the loan in question was for Mr. Mustakas' "campaign fund," the parents' collateralization of the loan would not qualify as a "gift of a personal nature," which the candidate could use during his election without limitation. Thus, since Section 441a(a) of the Act provides that individuals may not make contributions to any Federal candidate and his or her authorized political committees which, in the aggregate, exceed $1,000, the $100,000 loan constitutes an excessive contribution. Accordingly, there is probable cause to believe that Mustakas for Congress and Gary J. Bordes, as treasurer, violated 2 U.S.C. § 441a(f).

III. GENERAL COUNSEL'S RECOMMENDATIONS

Find probable cause to believe that Mustakas for Congress and Gary J. Bordes, as treasurer violated 2 U.S.C. §§ 434(a)(2)(A)(i), 434(b)(3)(A) and 441a(f).

7/23/91
Date

Lawrence M. Noble
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 25, 1991

George T. Mustakas, Esq.
4239 S. Claiborne
New Orleans, Louisiana 70125

RE: MUR 2705
George Mustakas

Dear Mr. Mustakas:

On November 8, 1989, the Federal Election Commission (the "Commission") found that there was reason to believe you violated 2 U.S.C. § 441a(f), and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

cc: George T. Mustakas, Esq.
c/o Gary J. Bordes
3400 W. Esplande Avenue, Suite B
Metairie, LA 70006

George T. Mustakas, Esq.
c/o George and Carlota Mustakas
5711 Pine Arbor Drive
Houston, TX 77066-2328

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 2705
George Mustakas)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On November 8, 1989, the Federal Election Commission ("Commission") found reason to believe that George Mustakas, a 1988 candidate in Louisiana's First Congressional District election, violated 2 U.S.C. § 441a(f). The basis for the Commission's finding concerned Mr. Mustakas' receipt of a $100,000 loan from Hibernia National Bank (the "Bank"), which was collateralized by certificates of deposit owned by his parents. Since neither Mr. Mustakas nor his parents responded to the Commission's discovery requests, the Commission authorized the filing of a subpoena enforcement action on April 10, 1990. After the commencement of that suit, information was obtained from the Respondents and the Bank, which obviated the need to pursue the subpoena enforcement action. Accordingly, the General Counsel voluntarily dismissed that action on April 30, 1991.

II. ANALYSIS

Under the Act, no person may make contributions to any candidate and his or her campaign committees with respect to any election for Federal office which, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). Additionally, the Act prohibits candidates and their campaign committees from knowingly accepting such contributions, 2 U.S.C. § 441a(f), and provides that any candidate who receives a loan or contribution for use in connection with his or her campaign shall be considered, for purposes of the Act, as having received the loan or contribution as an agent of his or her authorized committee. 2 U.S.C. § 432(e)(2). The Act defines a contribution to include a loan, and a loan includes a guarantee, endorsement, and any other form of security. 2 U.S.C. § 431(8); 11 C.F.R. § 100.7(a)(1)(i). A loan becomes a contribution when it is made, remains such to the extent it remains unpaid and is subject to the contribution limitations of the Act. 11 C.F.R. § 100.7(a)(1)(i)(B). Moreover, a loan which exceeds the contribution limits of the Act is unlawful, even if it is repaid. 11 C.F.R. § 100.7(a)(1)(i)(A). Additionally, each endorser or guarantor of a loan shall be deemed to have contributed that portion of the total amount of the loan for which he or she is liable in a written agreement. 11 C.F.R. § 100.7(a)(1)(i)(C).

The Commission's regulations explicitly permit a candidate for Federal office to make unlimited expenditures from his or her personal funds, including contributions to the candidate's principal campaign committee. 11 C.F.R. § 110.10(a). The Commission's regulations define personal funds to include "gifts of a personal nature which had been customarily received prior to candidacy. . . ." 11 C.F.R. § 110.10(b)(2). A candidate's family members, however, are subject to the same contribution limitations as other individuals. 2 U.S.C. § 441a(a).

At issue is Mr. Mustakas' receipt of a $100,000 loan which was secured by his parents. Information produced during the Commission's investigation clearly shows that Mr. Mustakas received a $100,000 loan from the Bank, and that the loan was collateralized by certificates of deposit owned by his parents. The available information further shows that the certificates of deposit were subsequently liquidated to satisfy the loan. A review of records provided by the Bank confirms that a $100,000 loan was made to Mr. Mustakas and collateralized by two $50,000 certificates of deposit, both in the names of his parents.

While the existence of the loan as well as its underlying collateralization have been acknowledged, it has been asserted that the candidate's parents provided the security for the loan as a gift to their son. This assertion, however, is unavailing here as the Act specifically defines a contribution to include gifts or loans, the latter of which includes a guarantee or any other form of security. Moreover, since a review of the Bank's records shows that the purpose of the loan in question was for Mr. Mustakas' "campaign fund," the parents' collateralization of the loan would not qualify as a "gift of a personal nature," which the candidate could use during his election without limitation. Thus, since Section 441a(a) of the Act provides that individuals may not make contributions to any Federal candidate and his or her authorized political committees which, in the aggregate, exceed $1,000, the $100,000 loan constitutes an excessive contribution. Additionally, the Act specifically prohibits candidates from accepting excessive contributions. In light of Mr. Mustakas' involvement in the loan transaction there is probable cause to believe that George Mustakas violated 2 U.S.C. § 441a(f).

III. **GENERAL COUNSEL'S RECOMMENDATIONS**

Find probable cause to believe that George Mustakas violated 2 U.S.C. § 441a(f).

7/23/91
Date

Lawrence M. Noble
General Counsel

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 25, 1991

George T. and Carlota C. Mustakas
5711 Pine Arbor Drive
Houston, Texas 77066-2328

RE: MUR 2705
George and Carlota Mustakas

Dear Mr. and Mrs. Mustakas:

On November 8, 1989, the Federal Election Commission (the "Commission") found that there was reason to believe that you, George and Carlota Mustakas, violated 2 U.S.C. § 441a(a), and instituted an investigation of this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that a violation has occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

George T. and Carlota C. Mustakas
Page 2

Should you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2705
George T. and Carlota C. Mustakas	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On November 8, 1989, the Federal Election Commission ("Commission") found reason to believe that George T. and Carlota C. Mustakas violated 2 U.S.C. § 441a(a). The basis for the Commission's finding concerned George and Carlota Mustakas' collateralization of a $100,000 loan, which was made by Hibernia National Bank (the "Bank") to their son, George Mustakas, a 1988 candidate in Louisiana's First Congressional District election. Since neither the candidate nor his parents responded to the Commission's discovery requests, the Commission authorized the filing of a subpoena enforcement action on April 10, 1990. After the commencement of that suit, information was obtained from the Respondents and the Bank, which obviated the need to pursue the subpoena enforcement action. Accordingly, the General Counsel voluntarily dismissed that action on April 30, 1991.

II. ANALYSIS

Under the Act, no person may make contributions to any candidate and his or her campaign committees with respect to any election for Federal office which, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). The Act defines a contribution to include a loan, and a loan includes a guarantee, endorsement, and any other form of security. 2 U.S.C. § 431(8);

11 C.F.R. § 100.7(a)(1)(i). A loan becomes a contribution when it is made, remains such to the extent it remains unpaid and is subject to the contribution limitations of the Act. 11 C.F.R. § 100.7(a)(1)(i)(B). Moreover, a loan which exceeds the contribution limits of the Act is unlawful, even if it is repaid. 11 C.F.R. § 100.7(a)(1)(i)(A). Additionally, each endorser or guarantor of a loan shall be deemed to have contributed that portion of the total amount of the loan for which he or she is liable in a written agreement. 11 C.F.R. § 100.7(a)(1)(i)(C).

The Commission's regulations explicitly permit a candidate for Federal office to make unlimited expenditures from his or her personal funds, including contributions to the candidate's principal campaign committee. 11 C.F.R. § 110.10(a). The Commission's regulations define personal funds to include "gifts of a personal nature which had been customarily received prior to candidacy. . . ." 11 C.F.R. § 110.10(b)(2). A candidate's family members, however, are subject to the same contribution limitations as other individuals. 2 U.S.C. § 441a(a).

At issue is George and Carlota Mustakas' collateralization of a $100,000 bank loan. Information produced during the Commission's investigation clearly shows that the candidate received a loan from the Bank, and that the loan was collateralized by certificates of deposit owned by George and Carlota Mustakas. The available information further shows that the certificates of deposit were subsequently liquidated to satisfy the loan. A review of records provided by the Bank

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confirms that a $100,000 loan was made to the candidate and collateralized by two $50,000 certificates of deposit, both in the names of his parents.

While the existence of the loan as well as its underlying collateralization have been acknowledged, it has been asserted that the candidate's parents provided the security for the loan as a gift to their son. This assertion, however, is unavailing here as the Act specifically defines a contribution to include gifts or loans, the latter of which includes a guarantee or any other form of security. Moreover, since a review of the Bank's records shows that the purpose of the loan in question was for Mr. Mustakas' "campaign fund," the parents' collateralization of the loan would not qualify as a "gift of a personal nature," which the candidate could use during his election without limitation. Thus, since Section 441a(a) of the Act provides that individuals may not make contributions to any Federal candidate and his or her authorized political committees which, in the aggregate, exceed $1,000, the $100,000 loan constitutes an excessive contribution. Accordingly, there is probable cause to believe that George T. and Carlota C. Mustakas violated 2 U.S.C. § 441a(a).

III. **GENERAL COUNSEL'S RECOMMENDATIONS**

Find probable cause to believe that George T. and Carlota C. Mustakas violated 2 U.S.C. § 441a(a).

7/23/91
Date

Lawrence M. Noble
General Counsel

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OGC 2085

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

91 AUG -5 AM 11:38

RALPH S. WHALEN, JR.
ATTORNEY AT LAW
3170 ENERGY CENTRE
1100 POYDRAS STREET
NEW ORLEANS, LOUISIANA 70163

(504) 582-2333
FAX (504) 582-2332

91 AUG -5 PM 3:45

August 1, 1991

Mr. Lawrence M. Noble
General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: George T. and Carlota C. Mustakas
Your File No. MUR 2705

Dear Mr. Noble:

Please be advised that I have been retained by Mr. George T. Mustakas and his wife, Carlota C. Mustakas, to represent them in the above referenced matter.

Pursuant to your letter dated July 25, 1991, we are preparing a brief stating our position in this mater. However, at this time, George Mustakas III, is currently on a tour of active duty with the United States Air Force and is completely unavailable. Since the allegations levied against Mr. and Mrs. Mustakas concern monies George Mustakas, III obtained prior to his campaign for public office, discussions with George are a necessity.

There is no way to contact George Mustakas III until after August 11, 1991, at which time he will be returning to his studies in Edinburg, Scotland. Due to the complete inability to communicate with George Mustakas III prior to August 11 and the difficulties in communication which will still exist after August 11, we are requesting that the office of the General Counsel of the Federal Election Committee grant George T. and Carlota C. Mustakas an extension of 20 days from the date of George Mustakas' return from active duty. This would give George T. and Carlota C. Mustakas until August 30, 1991, to respond to the allegations of the Federal Election Commission.

As no communication with George is possible, I would also like to request the same extension on his behalf. He will otherwise be unable to respond to the findings of the Commission within the time limit imposed.

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Please contact me if you need further information. Thank you for your cooperation in this matter.

Sincerely,

Ralph S. Whalen, Jr.

RSW:cac

cc: Federal Election Commission
Douglas Reffner, Office of the General Counsel

RALPH S. WHALEN, JR.
ATTORNEY AT LAW
3170 ENERGY CENTRE
1100 POYDRAS STREET
NEW ORLEANS, LOUISIANA 70163

(504) 582-2333
FAX (504) 582-2332

91 AUG -2 PM 4:22

August 2, 1991

VIA FACSIMILE

Mr. Craig Douglas Reffner
999 E Street, N.W.
Office of the General Counsel
Federal Election Commission
Washington, D.C. 20463

RE: George T. and Carlota C. Mustakas
Your File No. MUR 2705

Dear Mr. Reffner:

Please be advised that I have been retained by Mr. George T. Mustakas and his wife, Carlota C. Mustakas, to represent them in the above referenced matter. As per your request and the regulations of the Federal Election Committee, accompanying this facsimile transmission, please find the designation of counsel forms for both Mr. and Mrs. Mustakas.

In the near future, you will be contacted by me or by Janet Woodka, of my office, regarding the allegations made against Mr. and Mrs. Mustakas. If you need anything further from me, please contact one of us at the above address or phone number.

Thank you for your assistance in this matter.

Sincerely,

Ralph S. Whalen, Jr.

RSW:jlw

Attachments

93040980727

AUG 02 '91 15:13 RALPH WHAL

Aug 1.91 14:10 No.002 P.02

STATEMENT OF DESIGNATION OF COUNSEL

MUR 2705

NAME OF COUNSEL: Ralph S. Whalen, Jr.

ADDRESS: 3170 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

TELEPHONE: (504) 582-2333
FAX (504) 582-2332

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

August 02/91
Date

George T. Mustakas
Signature

RESPONDENT'S NAME: George T. Mustakas

ADDRESS: 5711 Pine Arbor Drive
Houston, Texas 77066

HOME PHONE: (713) 580-7170

BUSINESS PHONE:

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STATEMENT OF DESIGNATION OF COUNSEL

MUR 2705

NAME OF COUNSEL: Ralph S. Whalen, Jr.

ADDRESS: 3170 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

TELEPHONE: (504) 582-2333
FAX (504) 582-2332

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

August 02/91
Date

Carlota C. Mustakas
Signature

RESPONDENT'S NAME: Carlota C. Mustakas

ADDRESS: 5711 Pine Arbor Drive
Houston, Texas 77066

HOME PHONE: (713) 580-7170

BUSINESS PHONE:

9 3 0 4 0 9 8 0 7 2 9

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 9, 1991

Ralph S. Whalen, Jr., Esq.
3170 Energy Centre
1100 Poydras Street
New Orleans, Louisiana 70163

RE: MUR 2705
George T. Mustakas
Carlota C. Mustakas

Dear Mr. Whalen:

This is in response to your letter dated August 1, 1991, which we received on August 5, 1991, requesting an extension of 20 days to respond to the General Counsel's Brief. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on August 30, 1991.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

OGC 3158

HEALTH STRATEGIES INC.

8/7/91

Federal Election Commission
Washington, D.C. 20463

Dear Mr. Heffner

I formally request a 15 day extension to file my brief, regarding Mustakas for Congress and Gary J. Bordes, as Treasurer (MUR 3305).

The candidate is out of the country, and I am trying to contact him for additional information!

Regards,

Gary J Bordes

P.S. - I formally resign as Treasurer, immediately!

FEDERAL ELECTION COMMISSION
91 AUG 12 AM 10:33

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
91 AUG 12 AM 9:37

93040980731

3400 W. Esplanade Ave. North • Suite B • Metairie, Louisiana 70002
(504) 885-3991 • Fax (504) 885-4315

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 14, 1991

Gary J. Bordes, Treasurer
Mustakas for Congress
c/o Health Strategies, Inc.
3400 West Esplanade Avenue North
Suite B
Metairie, Louisiana 70002

RE: MUR 2705
Mustakas for Congress and
Gary J. Bordes, as treasurer

Dear Mr. Bordes:

This is in response to your letter dated August 7, 1991, which we received on August 12, 1991, requesting an extension of 15 days to respond to the General Counsel's Brief. After considering the circumstances presented in your letter, I have granted the requested extension. Accordingly, your response is due by the close of business on August 26, 1991.

If you have any questions, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 376-5690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

93040980732

91 AUG 26 PM 4:28

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2705
Mustakas for Congress and	)	
Gary J. Bordes, as treasurer	)	

I would like to summarize the events that have caused these proceedings.

First, all initial materials and reports were mailed to the candidate's address at 3445 N. Causeway Blvd., Metairie, La. 70002. All of these materials plus all the financial records were given to me after the election. For your review, I have attached "Exhibit 1", dated October 20, 1988.

Secondly, I faxed another response on June 2, 1989 to Keith Morgan, Federal Election Commission. I have attached "Exhibit II" for your review. This letter was a follow up to a conversation with Keith Morgan on May 24, 1989.

Third, on June 16, 1989, I again faxed a reply to Keith Morgan. See attached "Exhibit III" for your review.

Fourth, on December 1, 1989 I again responded, to the best of my knowledge. My last correspondence has not been considered in the General Counsel's Brief of November 8, 1989. I stated that the candidate's checking account was at Hibernia National Bank in New Orleans.

I had no signature authority regarding this account. I made no deposits into the account, and I had assumed the $100,000 in question was gifted to the candidate by his parents - before the candidate qualified for the election.

I filled out the initial twelfth day report to the best of my knowledge, and believe it was true, correct and complete! Other facts came to light after the filing of this report, but at the time the report was correct and complete!

All doing this period of time I solicited help and information for the candidate but to no avail!

8/26/91
Date

Gary J Bordes
GARY J BORDES

93040980734

EXHIBIT I

GARY J. BORDES

3000 Ridgelake Drive Suite 104
Metairie, LA. 70002
(504) 837-7700

Federal Election Commission
Washington, D. C. 20463

October 20, 1988

RE: MUR 2705
Mustakas for Congress, Inc.

Gentlemen:

The appropriate report was mailed on 10/14/88. I was asked to be Treasurer for the Mustakas for Congress, Inc. campaign. All booklets and forms were sent to 3445 N. Causeway Blvd. Suite 715. My address is 3000 Ridgelake Drive, Suite 104. All booklets and forms were dropped off at my office after the campaign was over, and I did not know about the report due 12 days before the elections. Therefore I completed both the 12 days before the election report and the report due 10/15/88 for the quarter ended 9/30/88. The only defense I have is pure ignorance. The campaign only had 10 contributors, and almost all of the money was the candidate's.

Again, I regret the delay of these reports. Thank you for all of your courtesies.

Very truly yours,

Gary J. Bordes
Treasurer

GJB:jj

cc: George Mustakas, II

EXHIBIT 4 A

** MULTIFAX RECEIVE CONFIRMATION REPORT **

Journal No. : 007
Receiver : FEDERAL ELECTION COMM.
Transmitter : B P S ENTERPRISE
Date : Jun 02.89 15:15
Document : 01 pages 3
Time : 00'52"
Mode : G3 NORMAL
Result : OK

93040980736

phone message EXHIBIT II

FOR Gary DATE 5/24 TIME 9:50 AM P.M.

M Keith Morgan

OF Fed. Election Comm.

PHONE (202) 376-8200 EXTENSION
AREA CODE NUMBER

MESSAGE
1-202-376-5200

SIGNED AP

	URGENT
✓	PHONED
	RETURNED YOUR CALL
✓	PLEASE CALL BACK
	WILL CALL AGAIN
	WAS IN
	WANTS TO SEE YOU

AVERY FORM NO. 84019

EXHIBIT II C

BPS ENTERPRISES, INC.
4408 Shores Drive
Suite E
Metairie, Louisiana 70006

Tel. # (504)885-3991 Fax # (504)885-4315

June 2, 1989

Keith Morgan
Federal Election Commission
Washington, D.C. 20463

Identification Number C00230862

Reference 12 Day Pre-Primary Report
8/10/88 - 9/11/88.

Dear Mr. Morgan:

I am respectfully requesting additional time regarding Mustakas for Congress, Inc. The $100,000 reported on line 11 (d) was actually borrowed from Hibernia National Bank, P.O. Box 61540, New Orleans, La. 70161. The note was dated 8/2/88, matured 9/2/88, interest rate 9½%, collateralized by Certificates of Deposit of the candidate's parents.

I will be inquiring as to what took place at the maturity date of 9/2/88.

Any further correspondence regarding this matter should be mailed directly to me as follows:

c/o BPS Enterprises, Inc.
4408 Shores Drive
Suite E
Metairie, La. 70006

If you have any questions please feel free to contact me.

Respectfully,

Gary J Bordes

Gary J. Bordes

The CD's were turned in during June 1989.

93040980737

BPS Enterprises, Inc.
4408 Shores Drive, Suite E
Metairie, LA 70006

TEL. (504) 885-3991 FAX (504) 885-4315

EXHIBIT III

9

June 15, 1989

Federal Election Commission
Mr. Keith V. Morgan
Washington, D.C. 20463

Your Reference 2705
Mustakas for Congress, Inc.

Dear Mr. Morgan:

The $100,000 note originally dated 8/2/88 was paid off during May 1989. Since Mr. Mustakas' parents liquidated their certificate of deposit to pay the bank note, the $100,000 amount must be considered as a contribution from the candidate's parents.

If any additional information is needed, please feel free to contact me directly.

Respectfully,

Gary J. Bordes

Gary J. Bordes

GJB/sp

93040980738

EXHIBIT III

(A)

** MULTIFAX RECEIVE CONFIRMATION REPORT **

Journal No.	:	004
Receiver	:	FEDERAL ELECTION COMM.
Transmitter	:	B P S ENTERPRISE
Date	:	Jun 16,89 12:00
Document	:	02 pages
Time	:	01'15"
Mode	:	G3 NORMAL
Result	:	OK

9 3 0 4 0 9 8 0 7 3 9

EXHIBIT III

(B)

BPS ENTERPRISES, INC.
4408 Shores Drive
Suite E
Metairie, Louisiana 70006

Tel. # (504)885-3991 **Fax # (504)885-4315**

DATE : JUNE 15, 1989 **NO. OF PAGES: 2**

TO: Mr. Keith V. Morgan

RE: Your Ref. # 2705
Mustakas for Congress

EXHIBIT IV

December 01, 1989

Federal Election Commission
999 E. Street NW
Washington, D.C. 20463
Attn: Mr. Craig Douglas Raffner

Dear Mr. Raffner:

To the best of my knowledge the Campaign Fund only had one checking account - Hibernia National Bank, 313 Carondelet Street, New Orleans, Louisiana, 70130. Since I was not authorized to sign on the account in question, the bank could not provide me with copies of the signature card.

All materials from the Federal Election Commission and Hibernia National Bank were mailed to 3445 N. Causeway Blvd. My mailing address at the time was 3000 Ridgelake Drive, Metairie, La. The only records maintained was a check book, which was dropped off to my office after the campaign was over. I did not have the authority to write checks nor make any deposits. I had no control over what the candidate had done. I believed the $100,000 in question was gifted to the candidate by his parents. This seemed appropriate because the candidate's parents had the financial strength to do so. I know the candidate and the candidate's parents received correspondence from the Commission. I have been priviledged regarding that correspondence.

Please consider these facts and if any additional information is needed please let me know.

Best regards,

Gary J Bordes

Gary J Bordes

9304098074O

OGC 2348

RALPH S. WHALEN, JR.
ATTORNEY AT LAW
3170 ENERGY CENTRE
1100 POYDRAS STREET
NEW ORLEANS, LOUISIANA 70163

(504) 582-2333
FAX (504) 582-2332

August 29, 1991

Secretary of Commission
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

Re: MUR 2705
George and Carlota Mustakas

Dear Sir:

I am enclosing the original and two copies of our brief in the captioned matter. I will be forwarding additional copies to you and Mr. Noble shortly as per his instructions in his letter of July 25, 1991.

Sincerely,

Ralph S. Whalen, Jr.

Ralph S. Whalen, Jr.

/ljf

Enclosure

cc: Lawrence M. Noble

QUESTION PRESENTED FOR REVIEW

STATUTES

2 U.S.C. Section 441a(a). - Is a pledge of two certificates of deposit as security on a personal loan made prior to a declaration of candidacy a violation of the Federal Elections Commission Act?

STATEMENT OF FACTS

In 1988, George T. Mustakas, II (hereinafter George II) was having financial difficulties. The law firm, in which he was a partner, was dissolving, resulting in the need to fulfill a great many financial obligations. He was also having some personal financial difficulties.

As a result of this personal and professional financial crisis, George II sought assistance from a lending institution, Hibernia National Bank. In order to provide George II with a loan, the Hibernia Bank decided that some type of security would be needed. George II did not have any such security or collateral and so, as many children do, he turned to his parents, George T. and Carlotta C. Mustakas (hereinafter Mr. and Mrs. Mustakas) for assistance. Mr. and Mrs. Mustakas agreed to help their son, as they had done many times in the past.

At their son's request, Mr. and Mrs. Mustakas pledged two certificates of deposit as collateral on a loan made by Hibernia National Bank to George T. Mustakas, II. [Exhibit 1] The value of each certificate of deposit was Fifty Thousand Dollars ($50,000.00) and the two certificates served, in the bank's eyes, as security for the One Hundred Thousand Dollar ($100,000.00) loan being given to George II. The purpose of this loan was to allow George II to get his finances in order and set all of his debts straight.

However, around the time of this loan transaction, George T. Mustakas, II decided that he wanted to represent people of Louisiana as an elected official and made a decided to run for a seat in the United States House of Representatives. After the loan was approved and the proceeds were distributed, George II decided to use his loan proceeds to open a checking account under the name of "Mustakas for Congress." This decision by George II and the subsequent transactions relating to the loan proceeds were completely unknown to Mr. and Mrs. Mustakas. Mr. and Mrs. Mustakas believed that their certificates of deposit were being pledged in order to secure a loan which would help their son satisfy his current and outstanding financial obligations. They had no intention of funding a campaign for public office.

George T. Mustakas, II did run for Congress in 1988 against an incumbent, Bob Livingston, and was unsuccessful in this bid for office. After the election and campaign, George II again faced a variety of financial problems and subsequently defaulted on the One Hundred Thousand Dollar loan made by Hibernia National Bank. After being contacted by the bank, Mr. and Mrs. Mustakas, in good faith, surrendered the two certificates of deposit as a means of satisfying the debt.

On November 11, 1989, the Federal Election Commission found reason to believe that "George Mustakas, II and Collette Mustakas, the parents of the candidate, violated 2 U.S.C. Section 441a(a)." However, this document, as well as previous and subsequent documents, did not identify the correct parties.[Exhibit 2] The documents incorrectly referred to George Mustakas, II and Collette Mustakas as the parents of the candidate and refer to the candidate as George Mustakas, III, when no such person exists. In addition, the documents were sent to 4408 Sheves Drive, Metairie, Louisiana. Mr. and Mrs. Mustakas currently reside in Houston, Texas and have never lived or received mail at 4408 Sheves Drive in Metairie, Louisiana. Documents mailed to the Metairie address were never forwarded to and were never received by Mr. and Mrs. Mustakas. In other words, the documents originally generated by the Federal Election

Committee contained both incorrect names and incorrect addresses with respect to Mr. and Mrs. Mustakas. Needless to say, Mr.and Mrs. Mustakas did not know of the allegations being investigated by the Federal Election Commission until they received a letter dated December 13, 1990. This letter notified Mr. and Mrs. Mustakas of previous actions taken, including the Magistrate's order to comply with the subpoena and order. [Exhibit 3]. Upon receipt of these documents, Carlotta Mustakas responded immediately with a letter dated January 29, 1991. [Exhibit 4]. Had Mr. and Mrs. Mustakas been previously notified of the investigation by the Federal Elections Commission, they would have fully complied with all requests and would have attempted to resolve this dispute at the earliest possible opportunity. On July 25, 1991, the Federal Election Commission notified Mr. and Mrs. Mustakas that there is reason to believe they violated 2 U.S.C. Section 441a(a). [Exhibit 5]

ARGUMENT

I. GEORGE T. AND CARLOTTA C. MUSTAKAS PLEDGED TWO CERTIFICATES OF DEPOSIT TO ASSIST THEIR SON IN SECURING A LOANS WHICH WAS TO BE USED TO RESOLVE PERSONAL FINANCIAL OBLIGATIONS.

In 1988, George Mustakas, II, began having financial difficulties. Although he attempted to resolve them on his own, his attempts failed. George discussed his problem with his parents, George T. and Carlotta C. Mustakas, and they agreed to help in the acquisition of a loan so that George II might settle his financial commitments. At this time, George II had not qualified to run as a candidate for public office and had made no official, public statement announcing any such candidacy.

The loan in question was classified as a commercial loan by Hibernia National Bank. Mr. and Mrs. Mustakas signed collateral pledge agreement on July 13, 1988, and the loan was approved on that date. The only document in this transaction that Mr.

and Mrs. Mustakas saw was the collateral pledge agreement. This pledge agreement makes no reference as to the purpose of this loan, and does not even state that this is a commercial loan. As far as Mr. and Mrs. Mustakas knew, this loan was a personal one, for the express purpose of settling their son's financial affairs. They were simply assisting their son in it's acquisition, as he was unable to secure such a loan on his own. Mr. and Mrs. Mustakas had every belief that their son would fulfill his obligations as a signor and would repay the loan as its terms prescribed. Since Mr. and Mrs. Mustakas were simply pledgors of security on this loan, they had no real involvement in the actual transaction and had no control over the subsequent distribution of the proceeds. The loan was not restricted in any way and the proceeds were in the exclusive control of George II.

It has been contended that the purpose of the loan was known to all parties involved. However, this is simply not true. Mr. and Mrs. Mustakas were told by their son that he was having personal and professional financial difficulties. He had not, at this time, made any formal declaration of his candidacy for Congress. Other personal and professional acquaintances of George II were aware of his financial problems. they corroborate the statements of Mr. and Mrs. Mustakas, noting that the implied purpose of this loan was to resolve George II's problems and was not to fund his campaign. [Exhibit 6]. Although the "loan summary" contains a notation that the loan was made for campaign purposes, this "loan summary" is an internal bank document, generated from one department to another. This document was never seen and was never read by Mr. and Mrs. Mustakas. There was never any intention on the part of the bank that this document be disseminated to the Mustakas'. There is no evidence that Mr. and Mrs. Mustakas were ever aware of this internal classification and their signature only appears on the pledge agreement. The loan renewal documents also refer to the loan as being related to campaign finances. However, these loan renewal documents were executed personally by George II. He alone signed these documents and received copies of them.

Their existence was never known to Mr. and Mrs. Mustakas.

In addition, the "Report of Receipts and Disbursements" records this money as being monies "from the candidate." [Exhibit 7]. This again reinforces the view that the loan was a personal loan whose proceeds belonged solely and exclusively to George II. The proceeds of the loan were distributed to George II prior to any announcement of his intentions to run for public office. These monies became his personally, not his as a candidate... he had not yet acquired that persona.

The regulations promulgated by the Federal Elections Commission permit a candidate for federal office to make unlimited expenditures from his or her own funds. 11 C.F.R. Section 110.10(a). Limitations on a candidate's personal contributions to his own campaign were held to be unconstitutional in Buckley v. Valeo, 424 U.S. 1, 96 S.Ct. 612, 46 L.Ed. 659 (1976). The Court reasoned that the general goals of the Federal Election Campaign Act were not served by such a restriction. The need to stem the appearance or existence of corruption was simply not present where such expenditures came from the candidate's personal monies. To restrict a person's ability to spend money in advocating his own views would be an impermissible restriction of fundamental First Amendment rights. Id. The money at issue in this case was money acquired by the candidate, George T. Mustakas, II, for his personal use. The money was acquired through a loan which was made prior to George's qualification as a congressional candidate. The only involvement of Mr. and Mrs. Mustakas was a result of their concern as parents for their child's well-being. They pledged two certificates of deposit as a means of helping their son resolve his financial difficulties, not to help him run for Congress. At this juncture, their son was not running for office, and so, no candidate existed to whom they could have or would have given money. They simply helped their son.

II. AS A TRANSACTION WHICH TRANSPIRED PRIOR TO THE ELECTION, THIS TRANSACTION DOES NOT FALL WITHIN THE REALM OF THE FEDERAL ELECTIONS CAMPAIGN ACT.

The purpose of the Federal Election Campaign Act is to limit spending in federal election campaigns and to eliminate actual or perceived undesired influence over candidates which might be acquired due to the receipt of such contributions. Osloski v. Federal Election Commission, 795 F.2d 156 (D.C. Cir. 1986). However, as previously stated, such influence has not been found where the candidate himself spends personal monies in pursuit of office. The Federal Elections Commission regulations permit a candidate for public office to make unlimited expenditures from his own funds in his own behalf. 11 C.F.R. Section 110.10(a). Additionally, personal funds notably include "gifts of a personal nature which have been customarily received prior to candidacy..." 11 C.F.R. Section 110.10(b)(2). In the instant case, such is the characteristic of the transaction in question. George T. Mustakas, II was experiencing personal and professional financial difficulties which his parents attempted to help him resolve. This was a common exhibition of Mr. and Mrs. Mustakas' generosity. They had, on numerous occasions, proffered the same assistance to their family and friends. This assistance was of a type "customarily received" by George II. At the time of his parents' assistance, George II was not a candidate for public office. He had made no announcement, official or otherwise. So this transaction, was also "received prior to candidacy." It seems evident, therefore, that this assistance from Mr. and Mrs. Mustakas to their son, George II, was the type of transaction considered in the creation of the Federal Elections Commission's regulations and therefore, such transaction is not subject to the general limitations of the Federal Elections Campaign Act.

George T. and Carlotta C. Mustakas are very generous people. They are a couple who love their children deeply and are always concerned with their well-being. As they have the financial means to do so, this concern and desire to provide for their children often takes the form of financial assistance or gifts of money. Mr. and Mrs. Mustakas have an extensive history of giving gifts, making loans, guaranteeing loans, or extending credit to their loved ones. They have made loans or gifts to each of their three children

CONCLUSION

Carlotta C. and George T. Mustakas are very generous people. They have often provided financial assistance to their family and friends in times of need. In 1988, their son George II needed their assistance. George II was faced with personal and professional financial commitments that he could not meet. The ONE HUNDRED THOUSAND DOLLAR ($100,000.00) loan from Hibernia National bank was collateralized by Mr. and Mrs. Mustakas. They did this for their son so that he could settle his financial affairs. He was not a candidate for public office at the time and they did not offer to fund any potential campaign. Mr and Mrs. Mustakas simply wanted to help. Unfortunately, George T. Mustakas, II's subsequent actions were beyond the control of his parents. But Mr. and Mrs. Mustakas' intentions remain clear . . . They wanted to help their son. Therefore, since they were giving support of a personal nature, as was their custom, prior to George II's qualification as a candidate. Mr. and Mrs. Mustakas did not violate the Federal Elections Commission Act.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 2705
George T. and Carlota C. Mustakas	)	

Respectfully submitted,

RALPH S. WHALEN, JR.
Bar Roll No. 8319
3170 Energy Centre
New Orleans, Louisiana 70163-3170
(504) 582-2333

COPIES OF THE BANK RECORDS
SUBMITTED WITH THIS RESPONSE
HAVE BEEN REMOVED FROM THE PERMANENT FILE

AFFIDAVIT

STATE OF LOUISIANA

PARISH OF

Before me the undersigned authority personally came and appeared, Robert Wooley, who did depose and say as follows:

That he was a personal friend consulted by George Mustakas about his 1988 campaign for United States Congress;

That he is aware that during the period preceding the campaign of George Mustakas, II, that the candidate was in financial difficulty and sought aid from his parents, George T. and Carlota Mustakas for that difficulty;

That he has no personal knowledge of George T. and Carlota Mastakas having collateralized a loan for campaign purposes for George Mustakas, II.

Robert Wooley

Robert Wooley

Sworn to and subscribed
before me this 29th
day of August, 1991.

Ralph S. Whalen

NOTARY PUBLIC

9 3 0 4 0 9 8 0 7 5 2

REPORT OF RECEIPTS AND DISBURSEMENTS

For An Authorized Committee
(Summary Page)

USE FEC MAILING LABEL OR TYPE OR PRINT

1. NAME / ADDRESS / CITY

C00230862 LA/01 090688
GARY J BORDES
MUSTAKAS FOR CONGRESS INC
3445 N CAUSEWAY BOULEVARD
SUITE 715
METAIRIE LA 70002

2. FEC IDENTIFICATION NUMBER

3. IS THIS REPORT AN AMENDMENT? ☐ YES ☒ NO

4. TYPE OF REPORT

- ☐ April 15 Quarterly Report
- ☐ July 15 Quarterly Report
- ☐ October 15 Quarterly Report
- ☐ January 31 Year End Report
- ☐ July 31 Mid-Year Report (Non-election Year Only)
- ☒ Twelfth day report preceding PRIMARY (Type of Election) election on 10/1/88 in the State of LA.
- ☐ Thirtieth day report following the General Election on ______ in the State of ______
- ☐ Termination Report

This report contains activity for ☒ Primary Election ☐ General Election ☐ Special Election ☐ Runoff Election

SUMMARY

		COLUMN A This Period	COLUMN B Calendar Year-to-Date
5.	Covering Period 8/10/88 through 9/11/88		
6.	Net Contributions (other than loans)		
	(a) Total Contributions (other than loans) (from Line 11(e))	102,880	102,880
	(b) Total Contribution Refunds (from Line 20(d))	354	354
	(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	102,526	102,526
7.	Net Operating Expenditures		
	(a) Total Operating Expenditures (from Line 17)	65,031	65,031
	(b) Total Offsets to Operating Expenditures (from Line 14)	—	—
	(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	65,031	65,031
8.	Cash on Hand at Close of Reporting Period (from Line 27)	37495	
9.	Debts and Obligations Owed TO the Committee (Itemize all on Schedule C and/or Schedule D)	—	
10.	Debts and Obligations Owed BY the Committee (Itemize all on Schedule C and/or Schedule D)	—	

For further information contact:
Federal Election Commission
999 E Street, NW
Washington, DC 20463
Toll Free 800 424 9530
Local 202-376 3120

I certify that I have examined this Report and to the best of my knowledge and belief it is true, correct and complete.

Type or Print Name of Treasurer
GARY J. BORDES

Signature of Treasurer

Date

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Report to the penalties of 2 U.S.C. §437g

FEC FORM 3 (revised 4/87)

93040980753

DETAILED SUMMARY PAGE
of Receipts and Disbursements
(Page 2, FEC FORM 3)

Name of Committee (in full)	Report Covering the Period	
MUSTANGS FOR CONYERS, INC.	From: 8/10/88	To: 9/1/88

I. RECEIPTS	COLUMN A Total This Period	COLUMN B Calendar Year-To-Date	
11 CONTRIBUTIONS (other than loans) FROM:			
(a) Individuals/Persons Other Than Political Committees			
(i) Itemized (use Schedule A)	1,906		11(a)(i)
(ii) Unitemized	974		11(a)(ii)
(iii) Total of contributions from individuals	2,880	2,880	11(a)(iii)
(b) Political Party Committees			11(b)
(c) Other Political Committees (such as PACs)			11(c)
(d) The Candidate	100,000	100,000	11(d)
(e) TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b), (c) and (d))	102,880	102,880	11(e)
12 TRANSFERS FROM OTHER AUTHORIZED COMMITTEES			12
13 LOANS			
(a) Made or Guaranteed by the Candidate			13(a)
(b) All Other Loans			13(b)
(c) TOTAL LOANS (add 13(a) and (b))			13(c)
14 OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)			14
15 OTHER RECEIPTS (Dividends, Interest, etc.)			15
16 TOTAL RECEIPTS (add 11(e), 12, 13(c), 14 and 15)			16
II. DISBURSEMENTS			
17 OPERATING EXPENDITURES	[illegible]	65,031	17
18 TRANSFERS TO OTHER AUTHORIZED COMMITTEES			18
19 LOAN REPAYMENTS			
(a) Of Loans Made or Guaranteed by the Candidate			19(a)
(b) Of All Other Loans			19(b)
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b))			19(c)
20 REFUNDS OF CONTRIBUTIONS TO:			
(a) Individuals/Persons Other Than Political Committees	354		20(a)
(b) Political Party Committees			20(b)
(c) Other Political Committees (such as PACs)			20(c)
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))			20(d)
21 OTHER DISBURSEMENTS			21
22 TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)	65,385	65,385	22

III. CASH SUMMARY

23 CASH ON HAND AT BEGINNING OF REPORTING PERIOD	$ —	23
24 TOTAL RECEIPTS THIS PERIOD (from Line 16)	$ 102,880	24
25 SUBTOTAL (add Line 23 and Line 24)	$ 102,880	25
26 TOTAL DISBURSEMENTS THIS PERIOD (from Line 22)	$ 65,385	26
27 CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)	$ 37,495	27

93040980754

ITEMIZED RECEIPTS

Use separate schedule(s) for each category of the Detailed Summary Page	PAGE 1 OF 1
	FOR LINE NUMBER 11ai

Information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

MUSTAKAS FOR CONGRESS, INC.

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
A. ANTHONY NEWOS 1721 S. JAHNCKE COVINGTON, LA. 70433 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Name of Employer: RETIRED Occupation: RETIRED Aggregate Year-to-Date > $ 200	8/8/88	$200
B. GEORGE T. OR CARLOTA C. MUSTAKAS 1409 PAPWORTH AVE. METAIRIE, LA. 70005 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Name of Employer: RETIRED Occupation: RETIRED Aggregate Year-to-Date > $ 256	8/8/88	$256
C. DENNIS SHAMMETTA 3536 LOWERLINE NEW ORLEANS, LA. 70125 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Name of Employer: SOUTHERN SHELL FISH Occupation: MANAGER Aggregate Year-to-Date > $ 1,000	7/21/88	$1,000
D. Receipt For: [ ] Primary [ ] General [ ] Other (specify):	Name of Employer: Occupation: Aggregate Year-to-Date > $		
E. E.J. [illegible] 132 RUE [illegible] SLIDELL, LA. [illegible] Receipt For: [X] Primary [ ] General [ ] Other (specify):	Name of Employer: LAVILLE CONSTRUCTION Occupation: OWNER Aggregate Year-to-Date > $ 200		$200
F. Eugene Orgeron P.O. BOX 542 HARVEY, LA. 70059 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Name of Employer: ORGERON MARINE Occupation: OWNER Aggregate Year-to-Date > $ 250		$250
G. Receipt For: [ ] Primary [ ] General [ ] Other (specify):	Name of Employer: Occupation: Aggregate Year-to-Date > $		

SUBTOTAL of Receipts This Page (optional)	1,906
TOTAL This Period (last page this line number only)	1,906

93040980755

SCHEDULE B

ITEMIZED [DISBU]RSEMENTS

Use separ[ate sch]edule(s) for each category of the Detailed Summary Page

PAGE 1 OF 2

FOR LINE NUMBER 17

[In]formation copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial [purp]oses, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

MUSTAKAS FOR CONGRESS, INC.

	Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Disbursement for	Date (month, day, year)	Amount of Each Disbursement This Period
A.	MILLER & ASSOCIATES, INC. 1 MARITIME PLAZA, 3RD. BATON ROUGE, LA. 70802	MAIL OUTS	[X] Primary [ ] General [ ] Other (specify)	8/5/88	8,656
B.	CARLOTTA CUCCIA 1317 NURSERY METAIRIE, LA. 70005	STAMPS	[X] Primary [ ] General [ ] Other (specify)	8/9/88	250
C.	METAIRIE POSTMASTER SEVERN AVE METAIRIE, LA. 70002	STAMPS	[X] Primary [ ] General [ ] Other (specify)	8/22/88	75
D.	MARKET RESEARCH & ISSUES MANAGEMENT, INC. 1 MARITIME PLAZA 3RD. BATON ROUGE, [illegible] 70802	POLLS	[X] Primary [ ] General [ ] Other (specify)	8/29/88	2,000
E.	RICHARD REYNOLDS	FUND RAISER	[X] Primary [ ] General [ ] Other (specify)	8/1/88	300
F.	MARKET RESEARCH & ISSUES MANAGEMENT, INC. 1 MARITIME PLAZA 3RD. BATON ROUGE, LA. 70802	TV COMMERCIAL	[X] Primary [ ] General [ ] Other (specify)	8/19/88	33,000
G.	JEFFERSON VOTER'S LEAGUE	PRINTING	[X] Primary [ ] General [ ] Other (specify)	8/19/88	250
H.	MARKET RESEARCH & ISSUES MANAGEMENT, INC. 1 MARITIME PLAZA 3RD. BATON ROUGE, LA. 70802	TV PRINTING	[X] Primary [ ] General [ ] Other (specify)	8/4/88	15,000
I.			[X] Primary [ ] General [ ] Other (specify)		

SUBTOTAL of Disbursements This Page (optional) 65,031

TOTAL This Period (last page this line number only) 65,031

93040980756

ULE B. ITEMIZED DISBURSEMENTS

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 21 OF 21

FOR LINE NUMBER 20

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (In Full)

Full Name, Mailing Address and ZIP Code	Purpose of Disbursement	Date (month, day, year)	Amount of Each Disbursement This Period
A. GEORGE T. MUSTAKAS, II 3445 N. CAUSEWAY BLVD. SUITE 715 METAIRIE, LA 70002	REPAYMENT Disbursement for: [X] Primary [ ] General [ ] Other (specify)	8/5/88	354
B.	Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
C.	Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
D.	Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
E.	Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
F.	Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
G.	Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
H.	Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		
I.	Disbursement for: [ ] Primary [ ] General [ ] Other (specify)		

SUBTOTAL of Disbursements This Page (optional) 354

TOTAL This Period (last page this line number only) ....

93040980757

OGC 2415

RALPH S. WHALEN, JR.
ATTORNEY AT LAW
3170 ENERGY CENTRE
1100 POYDRAS STREET
NEW ORLEANS, LOUISIANA 70163

(504) 582-2333
FAX (504) 582-2332

September 4, 1991

Mr. Craig Reffner
Office of General Counsel
Federal Election Commission
999 E Street N.W.
Washington, D.C. 20463

Re: MUR 2705
George T. and Carlota C. Mustakas

Dear Mr. Reffner:

I am enclosing an Affidavit executed by George Mustakas, II which was inadvertently omitted from our brief which was forwarded to you on August 29, 1991 via Federal Express.

I hope this omission did not cause you any inconvenience. If you have any questions, please do not hesitate to call me.

Sincerely,

Ralph S. Whalen

Ralph S. Whalen, Jr.

/ljf

Enclosures

cc: Secretary of Commission
Lawrence M. Noble

AFFIDAVIT

Before me, the undersigned authority, personally came and appeared, George Mustakas, II, who did depose and say as follows:

That he was a candidate for the United States Congress, House of Representative, in 1988;

That he was experiencing personal and professional financial difficulties prior to his announced candidacy;

That these financial difficulties were caused by personal circumstances, including but not limited to the dissolution of his law firm;

That he sought financial assistance from Hibernia National Bank a certified lending institution in the form of a $100,000.00 loan;

That the Hibernia National Bank requested that additional collateral be proffered as security on this loan;

That his parents, George T. and Carlota C. Mustakas, had frequently provided financial assistance to their family and friends in the past and that he, therefore, sought their help in this matter;

That George T. and Carlota C. Mustakas agreed to collaterize the $100,00.00 loan sought by George Mustakas, II, from Hibernia National Bank with the understanding that this transaction with Hibernia was a loan and, as such, would be repaid, with interest;

That the understanding of George T. and Carlota C. Mustakas was that the loan in question was for the purpose of resolving the financial difficulties of their son, George Mustakas, II, and was not intended as a loan or contribution to the campaign fund of George Mustakas, II;

That he never informed George T. and Carlota C. Mustakas, and they had no reason to believe, that the loan which they secured was for any purpose other than to assist in the solution of personal and professional financial problems which confronted their son.

GEORGE MUSTAKAS, II

Sworn to and subscribed
before me this 3rd
day of Sept., 1991.

NOTARY PUBLIC

RECEIVED
F.E.C.
SECRETARIAT

92 MAY -6 PM 12:57

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
George T. Mustakas, II,	)	MUR 2705
	)	
Mustakas for Congress, Inc., and its treasurer	)	**SENSITIVE**
	)	
George T. Mustakas and Carlota C. Mustakas	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

After conducting an investigation in this matter, this Office notified the above-captioned Respondents that the General Counsel was prepared to recommend that the Commission find probable cause to believe that George T. Mustakas, II, violated 2 U.S.C. § 441a(f), that Mustakas for Congress, Inc., and its treasurer (the "Committee"), violated 2 U.S.C. §§ 441a(f), 434(a)(2)(A)(i) and 434(b)(3)(A) and that George T. and Carlota C. Mustakas, the parents of the George T. Mustakas, II, violated 2 U.S.C. § 441a(a).[1]

In response to the General Counsel's Brief to the Committee, Gary Bordes, the Committee's treasurer at the time of the Commission's reason-to-believe findings, stated that he had resigned. Attachment A at 1. In a response submitted on behalf of the candidate's parents, counsel acknowledges that his

1. At the time the Commission made its reason-to-believe findings, the candidate's parents were identified as "George Mustakas, II and Collette Mustakas" while the candidate was identified as "George Mustakas III." The correct identity of these Respondents, as reflected in the caption of this Report, was discovered thereafter and Respondents have been properly identified in the General Counsel's Briefs.

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clients guaranteed a $100,000 bank loan which their son then used in his campaign for Federal office. Attachment B at 3. However, counsel argues that there was no violation of the Act as his clients "had no intention of funding a campaign for public office" and believed that they were securing the loan to allow their son "to get his finances in order and set all of his debts straight." Id. at 3 and 4. No response was received from the candidate, although an affidavit signed by him was included in his parents' response. Id. at 99-101.[2]

II. **ANALYSIS** (The General Counsel's Briefs (3) are incorporated herein by reference.)

A. Excessive Contribution from the Candidate's Parents

It is undisputed that George Mustakas received a $100,000 loan from Hibernia National Bank for use in his in 1988 congressional campaign and that his parents, George T. and Carlota C. Mustakas, secured this loan with two $50,000 certificates of deposit, which they later surrendered to the Bank in satisfaction of this debt. See Attachments B-D. Rather, counsel contends that George Mustakas' use of this loan to influence his campaign for Federal office was "completely unknown to Mr. and Mrs. Mustakas." Attachment B at 4. According to counsel, Mr. and Mrs. Mustakas were approached by

2. Although no Designation of Counsel Statement has ever been submitted by the candidate, counsel requested extensions to respond to the General Counsel's Briefs on behalf of the candidate and the candidate's parents. When contacted by this Office, counsel stated that he was not representing George Mustakas, whom he said was currently unavailable, and explained that he submitted this request at the behest of Mr. Mustakas' parents.

their son for assistance in connection with some financial problems that he was experiencing due to the dissolution of his law firm, and that out of "concern as parents for their child's well-being" they provided the security for the loan. Id. at 3 and 7. Counsel argues that although his clients were aware at the time that their son was contemplating candidacy, George Mustakas had not yet filed a statement of candidacy, officially announcing his decision to seek office. Id. at 5. In addition counsel asserts that although the Bank's documents pertaining to this loan show that it was for Mr. Mustakas' "campaign fund," his clients only "saw the collateral pledge agreement [which]. . . . makes no reference as to the purpose of this loan." Attachment B at 5-6. Counsel included in his submission an affidavit signed by George Mustakas stating that Mr. Mustakas "never informed George T. and Carlota C. Mustakas [his parents], and they had no reason to believe, that the loan which they secured was for any purpose other than to assist in the solution of personal and professional financial problems which confronted their son." Id. at 99-101. Finally, counsel provided numerous documents and statements which purport to show his clients' financial generosity towards their children, apparently as evidence that his clients have "an extensive history of giving gifts, making loans, guaranteeing loans, or extending credit to their loved ones." Id. at 8-10 and 31-98.

Counsel's assertion that Mr. and Mrs. Mustakas lacked knowledge of the intended purpose of the $100,000 loan they guaranteed, even if true, would not absolve them of liability under the Act. Counsel acknowledges that Mr. and Mrs. Mustakas assisted their son with his "personal" financial difficulties and in addressing such situations, the Commission has determined that funds provided to a candidate for living expenses and the subsistence of the candidate's family will be considered contributions for purposes of the Act. AO 1982-64 (citing AOs 1978-40 and 1976-70). Moreover, counsel has acknowledged that his clients were aware that their son was contemplating candidacy at the time they guaranteed the loan and the Commission previously has determined that funds provided to an individual for his or her living expenses at a time when he or she is determining whether to seek office will be considered contributions for purposes of the Act after the individual becomes a candidate. AO 1978-40. See 11 C.F.R. § 100.7(b)(1)(i) (1988). Thus, the fact that George Mustakas had not filed a statement of candidacy at the time his parents guaranteed the $100,000 bank loan is simply immaterial, as is the assertion that Mr. and Mrs. Mustakas were not privy to the bank documents which identify the loan as being for George Mustakas' "campaign fund."[3]

In addition, a review of the documentation provided by counsel purporting to show other instances when Mr. and

---

3. A review of the loan documents produced by Hibernia National Bank shows that George Mustakas submitted an application for the $100,000 loan on July 12, 1988, and that his parents offered two $50,000 certificates of deposit as security for the loan through a collateral pledge agreement signed on July 13, 1988. Attachment D at 63-73. A review of the public record shows that shortly thereafter, on July 25, 1991, George Mustakas filed a statement of candidacy.

Mrs. Mustakas provided financial support to their son does not establish that their guarantee of the $100,000 loan at issue here would qualify as George Mustakas' "personal funds," which he could then use in his campaign without limitation. See 11 C.F.R. § 110.10. In fact, a review of the documentation provided by counsel shows that prior to George Mustakas' 1988 campaign, his parents only provided financial assistance for him on one occasion, in 1983, when they purportedly assisted him in the purchase of a sailboat. Attachment B at 54-71 and 97-98. Although the documents in question do show other instances when Mr. and Mrs. Mustakas purportedly provided financial assistance to their son, this assistance was provided after his 1988 campaign had ended and as such, does not establish that financial assistance was customarily provided prior to candidacy. Id. at 54. These later gifts, in any event, consisted of cash disbursements over a three year period ranging from and thus, differ dramatically from the guarantee of a $100,000 loan. Id.

In short, by providing the collateral which was used to first secure and then later satisfy the $100,000 loan, Mr. and Mrs. Mustakas contributed to their son's campaign for Federal office. Since the Act provides that individuals may not make contributions to any Federal candidate which, in the aggregate, exceed $1,000, and since contributions are defined to include loans as well as loan guarantees, Mr. and Mrs. Mustakas made an excessive contribution. In addition, the Act specifically prohibits candidates from accepting excessive contributions and the available evidence shows that George Mustakas was involved in this loan transaction. Accordingly, this Office recommends that the Commission find probable cause to believe that George T. Mustakas and Carlota C. Mustakas violated 2 U.S.C. § 441a(a), that George Mustakas, II, violated 2 U.S.C. § 441a(f) and that Mustakas for Congress, Inc., and its treasurer violated 2 U.S.C. § 441a(f).

B. Committee's Violations

As set forth more fully in the General Counsel's Brief addressed to the Committee, the 1988 12-Day Pre-Primary Election Report for Louisiana's 1988 First Congressional District Primary Election was due on September 19, 1988. The Committee has acknowledged failing to file this report in a timely manner and a review of the public record shows that it was received by the Commission on October 14, 1988, some 25 days late. In addition, a review of this report shows that the Committee disclosed receiving a $100,000 candidate contribution, but failed to fully itemize it in any of the itemization schedules accompanying the report. Although the evidence shows that this $100,000 contribution was actually a bank loan received by the candidate and guaranteed by his parents, thus making it an excessive contribution, the Committee would nonetheless be required to fully itemize these funds, including that portion which it could have lawfully received. Moreover, under the Act, any candidate who receives a contribution or loan for use in connection with his or her campaign shall be considered as having received the contribution or loan as an agent of his or her authorized committee. 2 U.S.C. § 432(e)(2). Thus, with regard to the receipt and reporting of the $100,000 loan obtained by George Mustakas and guaranteed by his parents as well as the failure to file the 1988 12-Day Pre-Primary Election Report in a timely manner, this Office recommends that the Commission find probable cause to believe that Mustakas for Congress, Inc., and its treasurer violated 2 U.S.C. §§ 441a(f), 434(a)(2)(A)(i) and 434(b)(3)(A).

Although this Office is recommending that the Commission find probable cause to believe that the Committee violated various provisions of the Act, this Office also recommends taking no further action against the Committee given the unique circumstances presented here. As noted above, Gary Bordes, the treasurer of the Committee at the time of the Commission's reason-to-believe findings, has resigned. To date, the position of treasurer for the Committee remains vacant and any action taken against the Committee and George Mustakas, as treasurer, at this time would require that Mr. Mustakas be so notified and afforded an opportunity to respond. This would prolong the handling of this matter and further obligate the Commission's limited resources. In addition, while the Committee's violation of Sections 434(a)(2)(A)(i) and 434(b)(3)(A) is undisputed, the more egregious violation in this matter concerns the making and acceptance of the excessive contribution in the form of the $100,000 bank loan guarantee. Both the candidate and his parents were involved in this violation and they are being fully pursued. Accordingly, this Office recommends that the

Commission, in the exercise of its prosecutorial discretion, see Heckler v. Chaney, 470 U.S. 821 (1985), take no further action against the Committee with respect to the violations of 2 U.S.C. §§ 441a(f), 434(a)(2)(A)(i) and 434(b)(3)(A).

III. DISCUSSION OF PROPOSED CONCILIATION AGREEMENTS

IV. RECOMMENDATIONS

1. Find probable cause to believe that George T. Mustakas, II, violated 2 U.S.C. § 441a(f).

2. Find probable cause to believe that George T. Mustakas and Carlota C. Mustakas violated 2 U.S.C. § 441a(a).

3. Find probable cause to believe that Mustakas for Congress, Inc., and its treasurer violated 2 U.S.C. §§ 441a(f), 434(a)(2)(A)(i) and 434(b)(3)(A), but take no further action.

4. Close the file as to Mustakas for Congress, Inc., and its treasurer.

5. Approve the attached conciliation agreements (2) and the appropriate letters.

5/6/92
Date

Lawrence M. Noble
General Counsel

Attachments:
A. Response from Gary Bordes
B. Response from candidate's parents
C. Discovery Response from candidate's parents
D. Discovery Response from Hibernia National Bank
E. Proposed Conciliation Agreements (2)

Staff assigned: Craig Douglas Reffner

FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DONNA ROACH DR
COMMISSION SECRETARY

DATE: MAY 15, 1992

SUBJECT: MUR 2705 - GENERAL COUNSEL'S REPORT
DATED MAY 6, 1992

The above-captioned document was circulated to the Commission on THURSDAY, MAY 7, 1992 at 4:00 p.m.

Objection(s) have been received from the Commissioner(s) as indicated by the name(s) checked below:

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	XXX
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, MAY 19, 1992.

Please notify us who will represent your Division before the Commission on this matter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
George T. Mustakas, II;	)	
	)	MUR 2705
Mustakas for Congress, Inc. and its treasurer;	)	
	)	
George T. Mustakas and Carlota C. Mustakas.	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on May 19, 1992, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 2705:

1. Find probable cause to believe that George T. Mustakas, II, violated 2 U.S.C. § 441a(f).

2. Find probable cause to believe that George T. Mustakas and Carlota C. Mustakas violated 2 U.S.C. § 441a(a).

3. Find probable cause to believe that Mustakas for Congress, Inc. and its treasurer violated 2 U.S.C. §§ 441a(f), 434(a)(2)(A)(i), and 434(b)(3)(A), but take no further action.

(continued)

4. Close the file as to Mustakas for Congress, Inc., and its treasurer.

5. Approve the conciliation agreements and the appropriate letters as recommended in the General Counsel's report dated May 6, 1992

Commissioners Aikens, Elliott, McDonald, McGarry, Potter, and Thomas voted affirmatively for the decision.

Attest:

5-22-92
Date

Marjorie W. Emmons
Marjorie W. Emmons
Secretary of the Commission

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 9, 1992

George T. Mustakas, II
1317 Nursery Place
Metairie, Louisiana 70005

RE: MUR 2705
George T. Mustakas, II

Mustakas for Congress, Inc.
and its treasurer

Dear Mr. Mustakas:

On May 19, 1992, the Federal Election Commission found that there is probable cause to believe you violated U.S.C. § 441a(f) and that Mustakas for Congress, Inc., and its treasurer (collectively referred to as the "Committee") violated 2 U.S.C. §§ 441a(f), 434(a)(2)(A)(i), and 434(b)(3)(A), provisions of the Federal Election Campaign Act of 1971, as amended (the "Act".)

With respect to the Committee's violations of the Act, the Commission, after considering the circumstances of this matter, determined to take no further action and closed its file as it pertains to the Committee and its treasurer. The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

With respect to your violation of the Act, the Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 9, 1992

Ralph S. Whalen, Jr., Esq.
3170 Energy Centre
1100 Poydras Street
New Orleans, Louisiana 70163

RE: MUR 2705
George T. Mustakas
Carlota C. Mustakas

Dear Mr. Whalen:

On May 19, 1992, the Federal Election Commission found that there is probable cause to believe your clients, George T. and Carlota C. Mustakas, violated U.S.C. § 441a(a), a provision of the Federal Election Campaign Act of 1971, as amended.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Craig Douglas Reffner, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

93040980775

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

George T. Mustakas, II
1317 Nursery Place
Metairie, Louisiana 70005

RE: MUR 2705
George T. Mustakas, II

Dear Mr. Mustakas:

On June 9, 1992, you were notified that the Federal Election Commission found probable cause to believe that you violated 2 U.S.C. § 441a(f). On that same date, you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. Insofar as more than 30 days have elapsed without a response from you, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a response from you within 5 days of receipt of this letter.

Should you have any questions, please contact me at (202) 219-3400.

Sincerely,

Craig Douglas Reffner
Attorney

93040980776

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Ralph S. Whalen, Jr., Esq.
3170 Energy Centre
1100 Poydras Street
New Orleans, Louisiana 70163

RE: MUR 2705
George T. Mustakas
Carlota C. Mustakas

Dear Mr. Whalen:

On June 9, 1992, you were notified that the Federal Election Commission found probable cause to believe that your clients, George T. Mustakas and Carlota C. Mustakas, violated 2 U.S.C. § 441a(a). On that same date, you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. Insofar as more than 30 days have elapsed without a response from you, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a response from you within 5 days of receipt of this letter.

Should you have any questions, please contact me at (202) 219-3400.

Sincerely,

Craig Douglas Reffner

Craig Douglas Reffner
Attorney

93040980777

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

August 13, 1992

VIA FEDERAL EXPRESS

George T. Mustakas, II
212 Causeway Side, No. 7
Edinburgh, Scotland
United Kingdom

RE: MUR 2705
George T. Mustakas, II

Dear Mr. Mustakas:

On June 9, 1992, you were notified that the Federal Election Commission found probable cause to believe that you violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended. On that same date, you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), the conciliation period in this matter may not extend for more than 90 days, but may cease after 30 days. Insofar as more than 30 days have elapsed without a response from you, a recommendation concerning the filing of a civil suit will be made to the Commission by the Office of the General Counsel unless we receive a response from you within ten days of receipt of this letter. A copy of the conciliation agreement offered by the Commission in settlement of this matter is enclosed for your convenience.

Should you have any questions, please contact me at (202) 219-3690.

Sincerely,

Craig Douglas Reffner
Attorney

Enclosure
Conciliation Agreement

9 3 0 4 0 9 8 0 7 7 8

MUR # 2705

ADDITIONAL DOCUMENTS WILL BE ADDED TO THIS FILE AS THEY BECOME AVAILABLE. PLEASE CHECK FOR ADDITIONAL MICROFILM LOCATIONS.

FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 2705

DATE FILMED 10/27/93 CAMERA NO. 2

CAMERAMAN MC

93040980780

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

✓ Microfilm

Public Rcds

Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 2705.

12/10/93

9 3 0 4 3 5 4 2 0 5 2

THE READER IS REFERRED TO ADDITIONAL MICROFILM LOCATIONS

FOR THE FOLLOWING DOCUMENTS PERTINENT TO THIS CASE

1. Memo, General Counsel to the Commission, dated September 22, 1992, Subject: Priority System Report. See Reel 354, pages 1590-94.

2. Memo, General Counsel to the Commission, dated April 14, 1993, Subject: Enforcement Priority System. See Reel 354, pages 1595-1620.

3. Certification of Commission vote, dated April 28, 1993. See Reel 354, pages 1621-22.

4. General Counsel's Report, In the Matter of Enforcement Priority, dated December 3, 1993. See Reel 354, pages 1623-1740.

5. Certification of Commission vote, dated December 9, 1993. See Reel 354, pages 1741-1746.

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 10 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

The Honorable Robert L. Livingston
2368 Rayburn HOB
Washington, DC 20515

RE: MUR 2705

Dear Mr. Livingston:

On September 28, 1988, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

With respect to Mustakas for Congress, Inc. ("Committee") and its treasurer, the Commission has taken several actions. On April 10, 1989 the Commission found reason to believe that the Committee and its treasurer violated 2 U.S.C. §§ 434(a)(2)(A)(i) and 434(b)(3)(A) and no reason to believe that the Committee and its treasurer violated 2 U.S.C. § 434(a)(6)(A). Subsequently, on November 8, 1989, the Commission found reason to believe that the Committee and its treasurer violated 2 U.S.C. § 441a(f). On May 19, 1992, the Commission also found probable cause to believe that the Committee and its treasurer violated 2 U.S.C. §§ 441a(f), 434(a)(2)(A)(i), and 434(b)(3)(A), but determined to take no further action and closed its file as it pertains to them.

With respect to George T. Mustakas and Carlota C. Mustakas, on November 8, 1989 the Commission found reason to believe each violated 2 U.S.C. § 441a(a). On May 19, 1992, the Commission found probable cause to believe that George T. Mustakas and Carlota C. Mustakas violated 2 U.S.C. § 441a(a).

The Commission also took several actions with respect to George T. Mustakas, II. On November 8, 1989, the Commission found reason to believe that George Mustakas, II violated 2 U.S.C. § 441a(f). In addition, on May 19, 1992, the Commission found probable cause to believe that George T. Mustakas, II violated 2 U.S.C. § 441a(f).

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After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against George T. Mustakas, Carlota C. Mustakas, and George T. Mustakas, II. Accordingly, the Commission closed its file in this matter. This matter will become part of the public record within 30 days.

The Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

Sincerely,

Craig D. Reffner
Attorney

Date the Commission voted to close the file: DEC 09 1993

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 10 1993

George T. Mustakas, II
1317 Nursery Place
Metarie, LA 70005

RE: MUR 2705
George T. Mustakas, II

Mustakas for Congress, Inc.
and its treasurer

Dear Mr. Mustakas:

On June 9, 1992, you were notified that the Federal Election Commission had found probable cause to believe you violated 2 U.S.C. § 441a(f), a provision of the Federal Election Campaign Act of 1971, as amended, and you were sent a conciliation agreement offered by the Commission in settlement of this matter.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against you. Accordingly, the Commission closed its file with respect to all respondents in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when they are received.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Craig D. Reffner
Attorney

Date the Commission voted to close the file: DEC 09 1993

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 10 1993

Ralph S. Whalen, Jr., Esq.
3170 Energy Centre
1100 Poydras Street
New Orleans, LA 70163

RE: MUR 2705
George T. Mustakas
Carlota C. Mustakas

Dear Mr. Whalen:

On June 9, 1992, your clients were notified that the Federal Election Commission had found probable cause to believe that they violated 2 U.S.C. § 441a(a). On that date you were also sent a conciliation agreement offered by the Commission in settlement of this matter.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against George T. Mustakas and Carlota C. Mustakas. Accordingly, the Commission closed its file in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when they are received.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Craig D. Reffner
Attorney

Date the Commission voted to close the file: DEC 09 1993

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