



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 2710

DATE FILMED 3/13/89 CAMERA NO. 3

CAMERAMAN AS

99040734427



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FEDERAL ELECTION COMMISSION

85 SEP 30 PM 1:37

The Republican Party of Kentucky

Capitol Avenue at Third Street • P.O. Box 1068 • Frankfort, Kentucky 40602
Phone (502) 875-5130

OGC
546
RECEIVED
FEDERAL ELECTION COMMISSION

88 SEP 30 PM 12:30

mm 2710

September 27, 1988

Lawrence M. Noble, Esq.
General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Mr. Noble:

Full public disclosure of a federal candidate's campaign finances is the cornerstone of federal election law. But the committee formed by Harvey Sloane, the Judge Executive of Jefferson County, Kentucky, has chosen to ignore this tenet of the Federal Election Campaign Act ("FECA"). Accordingly, this complaint is filed against The Harvey Sloane for Senate Exploratory Committee (FEC ID C00221697).^{1/}

Although the 1990 Senate election in which Sloane has expressed an interest is still 25 months away, he has already displayed a consistent ability to ignore the law requiring full public disclosure. The FECA is clear that Sloane's committee must file a mid-year report listing all contributions and disbursements between January 20 and June 30, 1988. Yet he has failed to do so. 2 U.S.C. 434(a)(2); 11 C.F.R. 104.5(c). (See attached Exhibit A).

This is part of a consistent pattern for Sloane. He failed to register as a federal committee until an FEC complaint was lodged against him. And now he has refused to report the activities of that committee, which he claims in press reports has raised more than \$212,000 during the period. Louisville Courier-Journal, July 16, 1988, at page A8 (attached as Exhibit B).

^{1/} Sloane's Statement of Organization, filed on January 20, 1988, failed to include an address (a violation of 2 U.S.C. 433(b)(1); 11 C.F.R. 102.2(a)(1)(i)). However, I believe Sloane's headquarters to be located at 1401 South Fourth Street, Louisville, KY 40208

Lawrence M. Noble, Esq.
September 27, 1988
Page 2

Sloane is clearly beyond claiming a "testing the waters" exception to the reporting requirements because he filed a statement of organization to register as a political committee with the FEC. (Attached as Exhibit C). In addition, a "testing the waters" exception does not apply when an individual "raises funds in excess of what could reasonably be expected to be used for exploratory activities or undertakes activities designed to amass campaign funds that would be spent after he or she becomes a candidate". 11 C.F.R. 100.7(b)(1)(ii)(B). By any reasonable measure, the sum of \$212,000 is considerably more than what is required for exploratory activities and clearly reflects an attempt by Sloane to accumulate funds which would be used by him as a candidate for the Democratic nomination.

By failing to file the required report, Sloane has hidden information to which the public is entitled by law -- who is funding his effort, how he is spending his money and into whose debt he may be falling. Congress required the reporting of this information in the belief that public scrutiny is the best deterrent to wrongdoing. Harvey Sloane's actions suggest he does not agree.

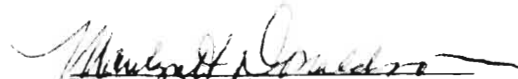
It is difficult to believe that Sloane is ignorant of the law. The filing requirements are well publicized by the FEC. Indeed, Sloane maintains in Exhibit B that he will file a report. But his report is now 8 weeks late. Accordingly, Sloane's "omission" appears to be a knowing and willful violation and should be dealt with as such by the Commission. The public has the right to timely knowledge about who is funding Harvey Sloane and for what purposes he is spending money.

Sincerely,



Bob Gable
State Chairman

Subscribed and sworn to before me this 27th day of September 1988.


Notary Public

My Commission expires: Feb 13 1992

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FEDERAL ELECTION COMMISSION
1987-1988

DATE TO BE FILED

CANDIDATE INDEX OF SUPPORTING DOCUMENTS (1)

PAGE 1

CANDIDATE/COMMITTEE/DOCUMENT

OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY GENERAL	DISBURSEMENTS PRIMARY GENERAL	COVERED DATE	PAGES	LOCATION TYPE OF FILE
JOANE, HARVEY	SENATE			KENTUCKY		

1. STATEMENT OF CANDIDATE
2. PRINCIPAL CAMPAIGN COMMITTEE

HARVEY JOANE FOR SENATE EXPLORATORY COMMITTEE
1988 STATEMENT OF ORGANIZATION

3. AUTHORIZED COMMITTEES
4. JOINT ENDORSEMENTS

5. NON-PARTY AND OTHER COMMITTEES

DEMOCRATIC REPORT ON INDEPENDENCE

6. UNAPPORTIONED SENATE CANDIDATE NOMINATION FORMS



Louisville Courier-Journal, July 16, 1988, Page A8

Committee backing Harvey Sloane for U.S. Senate raises \$212,000

By SHELTON SHAFER
Staff Writer

A committee formed to back the expected U.S. Senate candidacy of Jefferson County Judge-Executive Harvey Sloane said yesterday it has raised \$212,000.

"Raising this amount of money in this short period of time, and from this wide variety of sources, indicates that there is broad-based, statewide support for his candidacy for the Senate," said Don Cox, spokesman for the Harvey Sloane Senate Exploratory Committee.

Cox released the report that he said will be filed next week with the Federal Election Commission. It shows that the Sloane committee spent \$15,000 between the Jan. 1 and June 30 reporting period, leaving a balance of just under \$200,000.

Sloane, a Democrat, is expected to run in 1990 for the seat held by Republican Mitch McConnell. For seven years McConnell held the post that Sloane now has.

McConnell's last campaign report, filed early this year, showed that he had raised just over \$1 million for his re-election campaign.

Sloane's report lists more than 300 contributors, most of them from Louisville.

The Louisville contributors include attorneys, civic leaders, corporate officials and developers, contractors, engineers and consultants who do business with Jefferson County government.

The expenditures went primarily to a political consultant, Greer, Margolis, Mitchell.

Sloane said he will decide on his political choices after November's presidential election. Sloane also is considering running for re-election as county judge-executive in 1989.

No Democrats have formally announced for the 1990 Senate race.

Others mentioned as possible candidates include former Gov. Edward Breathitt, state Rep. Bobby Richardson, state Attorney General Fred Cowan and former Lt. Gov. Steve Beshear.

The following gave \$1,000 to the committee, unless noted otherwise.

Amelia P. Adams, Louisville, attorney; Wesley P. Adams Jr., Prospect, attorney; Helen C. Allen, Louisville, accountant; Mr. and Mrs. Bruce Armistead, Louisville, construction manager, \$2,000; David Banks, Louisville, attorney; Oliver H. Barber, Louisville, attorney; Anson M. Beard Jr., Greenwich, Conn., investment broker; Rosanne H. Beard, Glen Head, N.Y., homemaker; John C. Beck, New York City, investment adviser; Carl J. Benalinger, Louisville, attorney; Robert P. Benson Jr., Louisville, attorney; Michael Birkenhart, Chicago, businessman; Susan Birkenhart, Chicago, businesswoman; Mr. and Mrs. Bert L. Blidgen, Louisville; Curle J. Block, Prospect, businessman; Jack Bonenbros, Louisville, engineer; Ariana P. Booker, Prospect, homemaker; Robert L. Booker, Prospect, architect; Roger Bright, Louisville, executive; David A. Brill, Louisville, attorney; Patricia A. Brill, Louisville, homemaker; Gordon S. Brown, Louisville, executive vice president; Francis M. Burke, Pikeville, railroad; David Burkholder, Prospect, insurance, executive; Michael Cappy, Louisville, insurance, executive; Mike Caudill, Bowling Green, attorney; Angelo A. Ciliberti, Louisville, physician; Bert T. Combs, Lexington, attorney; Gerald L. Cornett, Anchorage, homemaker; James T. Cornett, Anchorage, construction; Joseph C. Corradino, Louisville, consultant; Vivian Corradino, Louisville, businesswoman; Donald L. Cox, Louisville, attorney; Ray C. Dauenhauser, Louisville, plumbing contractor; David L. Daugherty, Louisville, engineer; William M. Deakin, Maccoson, coal operator; Burt J. Deutch, Louisville, Adren Darrin, Lexington, educator; Donald B. Eckard, Louisville; Deborah Edwards, Antioch, Tenn., teacher; Kenneth Edwards, Antioch, Tenn., businessman; Allen Pengman, Louisville.

George J. Flynn, Louisville, businessman; William C. Fust, Louisville, attorney; David Gittleman, Louisville, attorney; Beth M. Olickenhaut, New York City, investment banker; Jan R. Gorman, Hazard, homemaker; L. D. Gorman, Hazard, businessman; Charles H. Grawemeyer, Louisville, businessman; Ollie Green, Louisville, accountant; Orlin M. Greene, Louisville, businessman; Elizabeth Ouenhart, Houston, executive; Sandra B. Hammond, Louisville, attorney; John W. Hampton, Louisville, accountant; T. Kennedy Helm III, Louisville, attorney; Rodney Henderson, Louisville, businessman; James W. Hendricks, Louisville, attorney; Lenny R. Holbrook, Cincinnati, attorney; Gene Holloway, Middletown, contractor; Robert L. Holloway, Louisville, property owner; Robert S. Holloway, Dallas, businessman; Shannon M. Holloway, Louisville, businessman; Susan O. Holloway, Louisville, homemaker; Ann Hughes, Louisville, marketing representative; George E. Hughes Jr., Jeffersonville, Ind.; Robert B. Irvine, Louisville, businessman; Clark A. James, Louisville, engineer; Ralph G. Johansen, Louisville, engineer; David A. Jones, Louisville, CGO; R. Larry Jones, Jeffersonville, businessman; Ronald Kendall, New Albany, Ind., businessman; William H. King, Louisville, owner, Louisville Downs; Vic Kozial, Louisville; Debbie K. Lagow, Houston, homemaker, \$2,000; Jeff Lagow, Houston, developer, \$1,000; James C. LaGrange, Fishersville, construction; Shirley LaGrange, Louisville, business-

woman; Allen M. Lansing, Louisville, physician; Michael Larkin, Louisville, accountant; Lisa Little, Goshan, administrative assistant; Mike Little, Louisville, communications manager; W. Bruce Lunsford, Louisville; Charles P. Mahr, Louisville, physician; Leuanne W. Mahr, Louisville, nurse; Administrator; Andrea W. Marksbury, Fishersville, homemaker; Jerry S. Marksbury Jr., Fishersville, businessman; Jerry S. Marksbury Jr., Fishersville, student; Linda Marrel, Prospect, homemaker; Robert M. Marrel, Louisville, developer; Andrew Martin, Louisville, self-employed.

R. F. Matthews, Shelbyville, attorney; Ed McGrath, Louisville, insurance; Jim McKinney, Louisville, \$2,000; Lynette McKinney, Louisville, homemaker, \$2,000; J. Bruce Miller, Louisville, attorney; Brian Milson, Miami, engineer; Richard W. Moore, Louisville, civil engineer; Timothy M. Mulloy, Louisville, attorney; W. P. Mulloy II, Louisville, attorney; W. P. Mulloy Jr., Louisville, attorney; Lafayette O. Owen, Louisville, physician; Margaret May Patterson, Frankfort, businesswoman; William S. Patterson, Frankfort, businessman; Judd Patton, Pikeville, homemaker; Paul S. Patton, Pikeville, county judge; Paul Perconti, Louisville, businessman; Rosemary Perconti, Louisville, homemaker; Carl B. Peyton, Floyd Knobs, Ind., homemaker; Dwyla Jo Phillips, Shepherdsville; Elissa Pfaltner, Camp Springs, teacher; Kenneth Pfaltner, Camp Springs, businessman; David Presnell Jr., Louisville, business executive; David Presnell III, Louisville, business executive; Mary J. Presnell, Louisville, homemaker; John L. O. Richard, Louisville, banker; John O. Rockefeller, Charleston, W. Va., senator; Laurence Rockefeller, New York City, attorney; Sharon Rockefeller, Charleston, W. Va., homemaker; Wendy O. Rockefeller, New York City, environmental scientist; William A. Seagesser, Jeffersonville, Ind., engineer; Candice Schiller, Louisville, homemaker; Sheldon B. Schiller, Louisville, physician; Charles C. Schimpfeler, Louisville, engineer; Al J. Schneider, Louisville, builder; Edward Schoenbecker, Louisville, attorney; Mary Schoenbecker, Louisville, homemaker; Billy J. Sexton, Louisville, engineer; Thomas Simant, Louisville, businessman; Amar C. Singla, Louisville, engineer; Brenda Slackhouse, Jeffersonville, Ind., businesswoman; John P. Stewart, Frankfort, physician; William C. Stone, Louisville, attorney; Heck Stratton, Pikeville, administrative assistant; Mr. and Mrs. Frank L. Sullivan, Louisville, \$2,000; Jack Sykes, Pikeville, engineer; Bonnie Thornton, Georgetown, homemaker; J. H. Thornton, Georgetown, businessman; Melvin A. Thornton, Georgetown, student; Jean Treger, Louisville, inventor; Robert T. Trautwein, Louisville, engineer; M. R. Twist, Louisville, businessman; William P. Vanderhaar, Louisville, physician; Kenton Wallace Jr., Elkhorn City, president; Harry Lee Waterfield, Frankfort, insurance executive; W. O. Waterhouse, Louisville, jeweler; Robert A. Watson, Louisville, businessman; Leonard J. Weiner, Louisville, physician; Raymond J. Wells, Louisville, executive director; Charles L. Weltsberg, Louisville, businessman; Michael C. Whipple, Houston, occupation unknown, \$2,000; Sandra Whipple, Houston, homemaker, \$2,000; Barry D. Willard, Georgetown, businessman; John M. Winkler, Louisville, businessman; Susan S. Winkler, Louisville, homemaker; Melvin C. Winstead, Louisville, engineer; James C. Wilton, Paducah, banker; and William D. Wilton, Silica, coal operator.

These political action committees gave \$1,000 or more to Sloane's committee:

Drive Political Fund, Washington, \$2,000; WWU PAC, Oak Brook, Ill., \$1,000.

A KY DEM 01885
S3654

STATEMENT OF ORGANIZATION

RECEIVED
FEDERAL ELECTION COMMISSION
JAN 20 1988

(see reverse side for instructions)

1. (a) Name of Committee (in Full) ☒ Check if name or address is changed. 2. Date
The Harvey Sloane for Senate Exploratory Committee January 15, 1988 120 AM 10:28

(b) Address (Number and Street)

3. FEC Identification Number

(c) City, State and ZIP Code

4. Is this an amended Statement? ☒ YES ☐ NO

5. TYPE OF COMMITTEE (check one): This Committee is an Exploratory Committee

☒ (a) This committee is a principal campaign committee. (Complete the candidate information below.)

☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)

Candidate: Harvey I. Sloane Democrat Senate KY
Name of Candidate Candidate Party Affiliation Office Sought State

☐ (c) This committee supports/expresses only one candidate (Name of candidate) and is NOT an authorized committee.

☐ (d) This committee is a _____ committee of the _____ Party.
(National, State or international) (Democratic, Republican, etc.)

☐ (e) This committee is a separate segregated fund.

☐ (f) This committee supports/expresses more than one Federal candidate and is NOT a separate segregated fund nor a party committee.

Name of Any Connected Organization or Affiliated Organization	Mailing Address and ZIP Code	Relationship
None		

If the registering political committee has identified a "connected organization" check, please indicate type of organization:

☐ Corporation ☐ Corporation with Capital Stock ☐ Labor Organization ☐ Membership Organization ☐ Trade Association ☐ Other

7. List of Contributors: Identify by name, address (phone number - optional), and position, the person in possession of cash, securities and property.

Full Name Mailing Address and ZIP Code Title or Position

Republic Bank & Trust

8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., alternate treasurer).

Full Name Mailing Address and ZIP Code Title or Position

R. Kevin Hobbs Coopers & Lybrand CPA's CPA
First National Tower
Louisville, Kentucky 40202

9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.

Name of Bank, Depository, etc. Mailing Address and ZIP Code
Republic Bank & Trust 601 W. Market
Louisville, Kentucky 40202

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

R. Kevin Hobbs R. Kevin Hobbs H. H. H.
Type or Print Name of Treasurer Signature of Treasurer

NOTE: Submission of false, erroneous, or incomplete information may result in the committee being fined or the committee being placed under civil or criminal sanctions.

For further information contact:

Federal Election Commission, P.O. Box 200, Washington, D.C. 20543

FORM 280 1-88

LAW OFFICES
VINCE, COX, GILMAN & MAHAN P.S.C.

CO 1400 KENNEDY TOWER
LOUISVILLE, KENTUCKY 40202

8 3 0 2 0 0 1 0 4

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



68 JAN 20 AM 10:28





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 11, 1988

R. Kevin Hobbs, Treasurer
The Harvey Gloane For Senate
Exploratory Committee
Coopers & Lybrand CPAs
First National Tower
Louisville, KY 40202

RE: MUR 2710
The Harvey Gloane For
Senate Exploratory
Committee and R. Kevin
Hobbs, as treasurer

Dear Mr. Hobbs:

The Federal Election Commission received a complaint which alleges that The Harvey Gloane For Senate Exploratory Committee 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 2710. 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 The Harvey Gloane For Senate Exploratory Committee 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.

89040734435

If you have any questions, please contact Beverly Kramer, the staff member assigned to this matter, at (202) 174-8100. 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

89040734436



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 11, 1988

Mr. Bob Baale, State Chairman
Republican Party Of Kentucky
Capitol Avenue at Third Street
PO Box 1068
Frankfort, KY 40602

RE: MUR 2710

Dear Mr. Baale:

This letter acknowledges receipt on September 30, - 1988, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended (the "Act"), by The Harvey Sloane For Senate Exploratory Committee and R. Kevin Hobbs, 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 2710. 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 Retna Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble
General Counsel

By: 
Lois G. Lerner
Associate General Counsel

Enclosure
Procedures

89040734437

OGC # 869

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

LYNCH, COX, GILMAN & MAHAN P.S.C.

**1800 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
FAX (502) 589-4994**

88 NOV -3 PM 1:42

DONALD L. COX

ALSO ADMITTED U.S. PATENT OFFICE

INDIANA OFFICE
521 E. 7TH STREET
JEFFERSONVILLE INDIANA 47130
TELEPHONE
(812) 283-7838

October 28, 1988

Lois G. Lerner
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 2710

Dear Ms. Lerner:

This letter is in response to your letter dated October 11, 1988, received by my client on October 14, 1988.

The Kentucky Republican Party, for the second time in the last nine months, has filed a complaint against Harvey I. Sloane, in an apparent attempt to impede the mere possibility of his candidacy against Republican Senator Mitch McConnell. In neither case is the complaint well taken and this latest claim ought to be dismissed also.

FACTUAL BACKGROUND

On January 15, 1988, the Harvey Sloane for Senate Exploratory Committee was established. Even though it was not required to do so, 1/ the Committee filed as an exploratory committee with the Federal Election Commission. Six days later,

1/ See FEC 1988 Campaign Guide at 51:

[A] . . . "testing the waters committee" . . . does not have to register and file reports as long as its activities are limited to testing the waters . . .

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LYNCH, COX, GILMAN & MAHAN P.S.C.

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on January 21, 1988, the Kentucky Republican Party filed an FEC complaint alleging that Judge Harvey Sloane was an active candidate for Senate because of certain newspaper stories and certain other information which it supplied to the FEC. After considering the submissions of the Republican Party and the Sloane Committees, the Federal Elections Commission ruled that it had no reason to believe that the Campaign Finance Act had been violated.

Beginning in the Spring of 1988 the Harvey Sloane for Senate Exploratory Committee began to raise funds to enable Judge Sloane to test the waters for a possible 1990 Senate race against Senator Mitch McConnell. These efforts were extraordinarily and unexpectedly successful; the lion's share of the approximately \$212,000 was raised during June of 1988. These fund raising activities were conducted in the full public light. A press conference was held on July 15, 1988 by the Sloane Exploratory Committee, announcing the results of the fund raising campaign and providing a detailed list of those from whom funds were raised. See Exhibit B to the Complaint of the Republican Party. At the press conference a draft financial report was made available to the press. See Exhibit 1. As shown by Exhibit 2, the Affidavit of the Treasurer of the Harvey Sloane for Senate Exploratory Committee, a financial report was duly mailed to the Secretary of the Senate on July 18, 1988, well in advance of July 31, 1988, the date on which a report was required to be filed by law.

It was not until two months later it was discovered that, for some reason, the report was lost in the mail and did not reach the Secretary of the Senate.

After the report of the fund raising activities by the Sloane Exploratory Committee was fully analyzed, it was determined, in view of the possibility that spurious claims might again be made by the Kentucky Republican Party just like they had done in January, to file papers declaring the candidacy of Judge Sloane. In a letter accompanying his Statement of Candidacy, Judge Sloane made clear, however, that he still had not decided to become a formal candidate but was filing the papers so that no legal questions could be raised about his actions. These papers were filed with the Secretary of the Senate and the Federal Election Commission on September 23, 1988, one week before the complaint of the Kentucky Republican Party was filed. See Exhibit 3.

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October 28, 1988
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ARGUMENTS

The Kentucky Republican Party makes two basic arguments. First, it argues that a financial disclosure statement was not timely filed as required by 11 C.F.R. Section 104.5(c). Second, it argues that the Sloane Committee had violated the testing-the-waters exemption provided in 11 C.F.R. Section 100.7(b)(1) by raising \$200,000+ in contributions. Neither of these arguments is supported in law and subsequent events have mooted any questions raised by the Kentucky Republican Party.

1. A report was mailed by the Sloane Exploratory Committee, even though it was not required by the FEC rules.

As shown by the attached affidavit (Exhibit 2), a report was mailed to the Secretary of the Senate by the Sloane Exploratory Committee on July 18, 1988. Under 11 C.F.R. 100.19(b), it is clear that first class mailing was an appropriate means of sending the report in question to the Federal Election Commission. In view of the affidavit of the Treasurer of the Sloane Exploratory Committee that the report was mailed, it is submitted that the Committee exercised its "best efforts . . . to . . . submit . . . the information required by the Act for the political committee" and therefore the report of the committee "shall be considered in compliance with the Act." 11 C.F.R. Section 104.7(a).

The facts as presented by the Kentucky Republican Party also belie even a colorable claim that there was an intentional violation of FEC rules. Why would the Sloane Exploratory Committee release to the public complete information about its fund raising activities and then not turn this information over to the Federal Election Commission?

Moreover, since under federal law an exploratory committee has no legal obligation to file reports, there would be no violation of law by not filing a report in any event. As pointed out in the FEC 1988 Campaign Guide at 51, a testing-the-waters committee "does not have to register and file reports as long as its activities are limited to testing the waters and it does not engage in campaigning."

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The Sloane Exploratory Committee was not required by law to register with the Federal Election Commission. Therefore, there was no requirement that any financial disclosure report be filed. Also, as shown by the attached affidavit of its Treasurer, the report was, in fact, mailed well before the deadline in question.

2. The Sloane for Senate Committee has been duly established.

The Kentucky Republican Party also accuses the Sloane Exploratory Committee of not being a proper testing-the-waters committee and not otherwise being properly registered. That claim also fails.

As pointed out above, the fact that the Sloane fund raising activities of last summer had been so successful provoked a complete reexamination of the question of whether Judge Sloane should, in fact, become a candidate for purposes of FEC rules. This past summer the Sloane Exploratory Committee was concerned that, after the Republican Party saw Judge Sloane's fund raising successes, they might once again attempt to file some sort of charges in the Federal Election Commission or might otherwise attempt to block his fund raising activities. Even though Judge Sloane has to this day not decided to become a candidate for Senate or formally announced his candidacy, nonetheless, on September 23, 1988, he filed formal papers establishing his candidacy for Senate. See Exhibit 3. He also changed the name of his committee to the Sloane for Senate Committee. These changes made a mere seven weeks after the close of the fund raising period, demonstrate the intent fully to comply with federal campaign law.

Even though the Sloane for Senate Committee was fully and legally registered in September of 1988, we believe that this step was not earlier required under the Commission's "testing-the-water" rules, particularly in light of the situation which exists in Kentucky today.

There is nothing in the FEC's rules or in any of its decisions or advisory opinions which specifies exactly at what dollar amount the testing-of-the-waters stage has been passed. Commission advisory opinions and regulations focus heavily on whether the statements and public activities of the potential candidate show that he or she has an intention of being a

LYNCH, COX, GILMAN & MAHAN P.S.C.

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October 28, 1988
Page 5

candidate, rather than on the amount of money raised. Thus, in the Commission's regulations appearing at 50 F.R. No. 49, pp. 9992, 9993, among the factors discussed were whether the individual makes or authorizes written or oral statements that refer to him or her as a candidate for a particular office, citing A.O. 1981-32, as well as whether the "individual conducts activity in close proximity to the election or over a protracted period of time." Here, there is no allegation that Judge Sloane's activities fall within any of these standards. Rather, the Republican Party seems to argue that the dollar amount of funds raised alone is determinative.

The major advisory opinion of the Commission construing the testing-the-waters rules is A.O. 1985-40, in which the Commission approved of a direct mail solicitation to "as many as 10,000 former contributors." Without mentioning the specific amount to be raised, the Commission considered the following factors in concluded that the activities would be within the testing-the-waters exception.

1. There was no determination yet to actively seek the office in question.
2. The funds will be used only for testing the waters; and
3. The solicitation will not result in amassing campaign funds.

In this case there has been no claim that Judge Sloane has been actively seeking the Senate nomination, nor is there an argument that any expenditures made by him were for other than testing-the-waters purposes.

Since, in this case, within two months after the funds were raised they were turned over to a formally established campaign committee, there can be no logical argument that the intent was to "amass funds" as prohibited under 11 C.F.R. Section 100.7(b)(1)(ii)(B). When the average contested Senate seat draws expenditures of \$3,000,000 to \$5,000,000, one could hardly state that collecting a mere \$212,000 is amassing anything. It is also important to recognize that the candidate against whom these funds were allegedly being "amassed" is an incumbent Senator who, according to Exhibit B of the Republican Party's submission, had already amassed campaign funds in excess of \$1,000,000.

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Nor does this level of fund raising appear to be unreasonably in excess of that necessary to test the waters. Taking on such a heavily financed opponent is not a step to be taken lightly. Polling - one of the most important aspects of any modern campaign - is quite expensive. Commissioning two or even three polls before making a final decision on whether to run is made is certainly not out of the question. Determining possible fund raising sources is also crucial. In today's PAC financed campaigns, extensive, nationwide travel to investigate PAC funding sources is also a necessity. In light of these facts, \$200,000 is not an unreasonable amount to test-the-waters nor, in today's world of multi-million dollar campaigns, does it constitute an amassed amount of funds.

Therefore, in view of the fact that an appropriate committee has now been established and that Judge Sloane has filed his statement of candidacy, it is submitted that any claim of the Kentucky Republican Party is not well taken or is in any event false.

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

Very truly yours,

LYNCH, COX, GILMAN & MAHAN, P.S.C.


Donald L. Cox

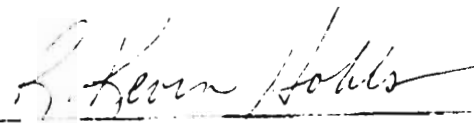
DLC/wc

w/sl

DESIGNATION OF COUNSEL

Re: MCR 2710

The Harvey Sitane for Senate Exploratory Committee and R. Kevin Hobbs hereby designate Donald L. Cox to represent them regarding the above matter.



R. Kevin Hobbs

v/sl

3 9 0 4 0 7 5 4 4 4 4

Committee backing Harvey Sloane for U.S. Senate raises \$212,000

By SHELDON SHAFER
and Staff

A committee formed to back the expected U.S. Senate candidacy of Jefferson County Judge-Executive Harvey Sloane said yesterday it has raised \$212,000.

"Raising this amount of money in the short period of time, and from this large number of sources, indicates that there is broad-based, nationwide support for the candidate for the Senate," said Don Cox, spokesman for the Harvey Stassen Senate Exploratory Committee.

2. He released the report that he said will be filed next week with the Federal Election Commission, stating that the Citizens committee spent \$18,150 between the Jan. 1 and June 30 reporting period, leaving a balance of just under \$20,000.

Stevens, a Democrat, is expected to win in 1990 for the seat held by Republican Milton McConnell. For seven years McConnell held the seat that Sloane now has.

McCormack's last campaign report filed early this year showed that he had raised just over \$1 million for his reelection campaign.

Official's report lists more than 100 contributors, most of them from Louisville.

The Louisville contributors include attorneys, civic leaders, corporate officials and lawmakers, contractors, engineers and consultants who do business with Jefferson County government.

The expenditures were primarily to a political consultant, Green, Man-
golds, Mitchell.

Stearns said he will decide on his
financial strategy after November
election. He also is
considering running for reelection
as county superintendent in 1934.

received for the 1990 Senate race

Others mentioned as possible candidates include former Gov. Eugene Breginitt, state Rep. Bobby Richardson, state Attorney General Fred Cowan and former Lt. Gov. Steve Beshear.

The following gave \$1,000 to the committee whose roles otherwise are:

Amelia A. Adams, Louisville; attorney; Nelson P. Adams, Jr., President, attorney; Helen C. Allen, Louisville; accountant; Mr. and Mrs. Bruce Armstrong, Louisville; construction manager; 10,000 D.

[illegible][illegible][illegible][illegible]

1977, 1978, 1979, 1980, 1981, 1982, 1983, 1984, 1985, 1986, 1987, 1988, 1989, 1990, 1991, 1992, 1993, 1994, 1995, 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, 2017, 2018, 2019, 2020, 2021, 2022, 2023, 2024, 2025, 2026, 2027, 2028, 2029, 2030, 2031, 2032, 2033, 2034, 2035, 2036, 2037, 2038, 2039, 2040, 2041, 2042, 2043, 2044, 2045, 2046, 2047, 2048, 2049, 2050, 2051, 2052, 2053, 2054, 2055, 2056, 2057, 2058, 2059, 2060, 2061, 2062, 2063, 2064, 2065, 2066, 2067, 2068, 2069, 2070, 2071, 2072, 2073, 2074, 2075, 2076, 2077, 2078, 2079, 2080, 2081, 2082, 2083, 2084, 2085, 2086, 2087, 2088, 2089, 2090, 2091, 2092, 2093, 2094, 2095, 2096, 2097, 2098, 2099, 2100, 2101, 2102, 2103, 2104, 2105, 2106, 2107, 2108, 2109, 2110, 2111, 2112, 2113, 2114, 2115, 2116, 2117, 2118, 2119, 2120, 2121, 2122, 2123, 2124, 2125, 2126, 2127, 2128, 2129, 2130, 2131, 2132, 2133, 2134, 2135, 2136, 2137, 2138, 2139, 2140, 2141, 2142, 2143, 2144, 2145, 2146, 2147, 2148, 2149, 2150, 2151, 2152, 2153, 2154, 2155, 2156, 2157, 2158, 2159, 2160, 2161, 2162, 2163, 2164, 2165, 2166, 2167, 2168, 2169, 2170, 2171, 2172, 2173, 2174, 2175, 2176, 2177, 2178, 2179, 2180, 2181, 2182, 2183, 2184, 2185, 2186, 2187, 2188, 2189, 2190, 2191, 2192, 2193, 2194, 2195, 2196, 2197, 2198, 2199, 2200, 2201, 2202, 2203, 2204, 2205, 2206, 2207, 2208, 2209, 2210, 2211, 2212, 2213, 2214, 2215, 2216, 2217, 2218, 2219, 2220, 2221, 2222, 2223, 2224, 2225, 2226, 2227, 2228, 2229, 2230, 2231, 2232, 2233, 2234, 2235, 2236, 2237, 2238, 2239, 2240, 2241, 2242, 2243, 2244, 2245, 2246, 2247, 2248, 2249, 2250, 2251, 2252, 2253, 2254, 2255, 2256, 2257, 2258, 2259, 2260, 2261, 2262, 2263, 2264, 2265, 2266, 2267, 2268, 2269, 2270, 2271, 2272, 2273, 2274, 2275, 2276, 2277, 2278, 2279, 2280, 2281, 2282, 2283, 2284, 2285, 2286, 2287, 2288, 2289, 2290, 2291, 2292, 2293, 2294, 2295, 2296, 2297, 2298, 2299, 2300, 2301, 2302, 2303, 2304, 2305, 2306, 2307, 2308, 2309, 2310, 2311, 2312, 2313, 2314, 2315, 2316, 2317, 2318, 2319, 2320, 2321, 2322, 2323, 2324, 2325, 2326, 2327, 2328, 2329, 2330, 2331, 2332, 2333, 2334, 2335, 2336, 2337, 2338, 2339, 2340, 2341, 2342, 2343, 2344, 2345, 2346, 2347, 2348, 2349, 2350, 2351, 2352, 2353, 2354, 2355, 2356, 2357, 2358, 2359, 2360, 2361, 2362, 2363, 2364, 2365, 2366, 2367, 2368, 2369, 2370, 2371, 2372, 2373, 2374, 2375, 2376, 2377, 2378, 2379, 2380, 2381, 2382, 2383, 2384, 2385, 2386, 2387, 2388, 2389, 2390, 2391, 2392, 2393, 2394, 2395, 2396, 2397, 2398, 2399, 2400, 2401, 2402, 2403, 2404, 2405, 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2414, 2415, 2416, 2417, 2418, 2419, 2420, 2421, 2422, 2423, 2424, 2425, 2426, 2427, 2428, 2429, 2430, 2431, 2432, 2433, 2434, 2435, 2436, 2437, 2438, 2439, 2440, 2441, 2442, 2443, 2444, 2445, 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, 2472, 2473, 2474, 2475, 2476, 2477, 2478, 2479, 2480, 2481, 2482, 2483, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499, 2500, 2501, 2502, 2503, 2504, 2505, 2506, 2507, 2508, 2509, 2510, 2511, 2512, 2513, 2514, 2515, 2516, 2517, 2518, 2519, 2520, 2521, 2522, 2523, 2524, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, 2580, 2581, 2582, 2583, 2584, 2585, 2586, 2587, 2588, 2589, 2590, 2591, 2592, 2593, 2594, 2595, 2596, 2597, 2598, 2599, 2600, 2601, 2602, 2603, 2604, 2605, 2606, 2607, 2608, 2609, 2610, 2611, 2612, 2613, 2614, 2615, 2616, 2617, 2618, 2619, 2620, 2621, 2622, 2623, 2624, 2625, 2626, 2627, 2628, 2629, 2630, 2631, 2632, 2633, 2634, 2635, 2636, 2637, 2638, 2639, 2640, 2641, 2642, 2643, 2644, 2645, 2646, 2647, 2648, 2649, 2650, 2651, 2652, 2653, 2654, 2655, 2656, 2657, 2658, 26

[illegible]

MCDONALD, LOUISVILLE, INSURANCE; JIM MCKINNEY,
LOUISVILLE, 12 AND LYNETTE MCKINNEY, LOUISVILLE
NORMANSON, 12000 S. BRUCE MCKEE, LOUISVILLE

[illegible][illegible][illegible]

These political action committees gave \$1000 or more to Obama last year.

8 9 0 4 0 7 3 4 4 4 6

REPORT TO AND DISBURSEMENTS
For An Authorized Committee
(Summary Page)

DRAFT

1. NAME OF COMMITTEE (Full)

The Harvey Sloane For Senate Exploratory Committee

ADDRESS (number and street) ☐ Check if different than previously reported

3500 First National Tower

CITY, STATE and ZIP CODE

Louisville, Kentucky

STATE/DISTRICT

40202

2. FEC IDENTIFICATION NUMBER

3. IS THIS REPORT AN AMENDMENT?

☐ YES

☐ NO

4. TYPE OF REPORT

☐ April 15 Quarterly Report

☐ Twelfth day report preceding

Type of Election

☐ July 15 Quarterly Report

election on _____ in the State of _____

☐ October 15 Quarterly Report

☐ Thirtieth day report following the General Election on

☐ January 31 Year End Report

in the State of _____

☒ July 31 Mid-Year Report (Non-election Year Only)

☐ Termination Report

This report contains activity for ☒ Exploratory Committee

☐ Primary Election

☐ General Election

☐ Special Election

☐ Runoff Election

SUMMARY

5. Covering Period	COLUMN A This Period	COLUMN B Calendar Year-to-Date
1/1/88 through 6/30/88		
6. Net Contributions (other than loans)		
(a) Total Contributions (other than loans) (from Line 11a)	212,131.00	
(b) Total Contribution Refunds (from Line 20(d))	28.40	
(c) Net Contributions (other than loans) (subtract Line 6(b) from 6(a))	212,092.60	
7. Net Operating Expenditures		
(a) Total Operating Expenditures (from Line 17)	15,063.01	
(b) Total Offsets to Operating Expenditures (from Line 14)		
(c) Net Operating Expenditures (subtract Line 7(b) from 7(a))	15,063.01	
8. Cash on Hand at Close of Reporting Period (from Line 27)	197,029.59	
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
990 E Street, N.W.
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

Kevin H. Hobbins

Signature of Treasurer

Date

7/15/88

NOTE: Submit this report to the Federal Election Commission by the date specified in the instructions to the Report. The penalties of 2 U.S.C. § 4375

FEC FORM 3

DETAILED SUMMARY PAGE

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

DRAFT

Name of Committee (in full) _____ Report Covering the Period: _____
From _____ To _____

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)		
(ii) Unitemized		
(iii) Total of contributions from individuals	201,131.00	
(b) Political Party Committees		
(i) Other Political Committees (such as PACs)	11,000.00	
(ii) The Candidate		
(c) TOTAL CONTRIBUTIONS (other than loans) (add 11(a)(iii), (b)(i) and (b)(ii))	212,131.00	
12. TRANSFERS FROM OTHER AUTHORIZED COMMITTEES		
13. LOANS:		
(a) Made or Guaranteed by the Candidate		
(b) All Other Loans		
(c) TOTAL LOANS (add 13(a) and (b))		
14. OFFSETS TO OPERATING EXPENDITURES (Refunds, Rebates, etc.)		
15. OTHER RECEIPTS (Dividends, Interest, etc.)		
16. TOTAL RECEIPTS (add 11(c), 12, 13(c), 14 and 15)	212,131.00	

II. DISBURSEMENTS

17. OPERATING EXPENDITURES	13,063.01	
18. TRANSFERS TO OTHER AUTHORIZED COMMITTEES		
19. LOAN REPAYMENTS		
(a) Of Loans Made or Guaranteed by the Candidate		
(b) Of All Other Loans		
(c) TOTAL LOAN REPAYMENTS (add 19(a) and (b))		
20. REFUNDS OF CONTRIBUTIONS TO:		
(a) Individuals (Persons Other Than Political Committees)	38.40	
(b) Political Party Committees		
(c) Other Political Committees (such as PACs)		
(d) TOTAL CONTRIBUTION REFUNDS (add 20(a), (b) and (c))	38.40	
21. OTHER DISBURSEMENTS		
22. TOTAL DISBURSEMENTS (add 17, 18, 19(c), 20(d) and 21)	13,101.41	

III. CASH SUMMARY

23. CASH ON HAND AT BEGINNING OF REPORTING PERIOD	\$	0
24. TOTAL RECEIPTS THIS REPORTING PERIOD (from Line 16)	\$	212,131.00
25. TOTAL (add Line 23 and Line 24)	\$	212,131.00
26. TOTAL DISBURSEMENTS THIS REPORTING PERIOD (from Line 22)	\$	13,101.41
27. CASH ON HAND AT CLOSE OF THE REPORTING PERIOD (subtract Line 26 from 25)	\$	197,029.59

PRESS RELEASE

3 3 0 4 0 7 5 4 4 4 9

The Harvey Sloane Senate Exploratory Committee announced today that they had raised \$212,000, most of it over the last two months. Don Cox, spokesman for the Sloane Exploratory Committee said, "We are really excited that we were able, in such a short time, to raise this amount of money for a race 2-1/2 years away. The money came from sources who had never before contributed to Sloane's state-wide races" At a press conference held on July 15, 1988, Cox made available draft copies of the Federal Election Commission's filings of the Sloane Committee to be made next week. In addition, Cox provided a list of the contributors who had provided the \$212,000 in contributions. According to Cox, "raising this amount of money in this short a period of time, and from this wide variety of sources, indicates that there is broad-based state-wide support for his candidacy for the Senate. This money will enable Harvey to take a very close look at this race."

Judge Sloane has not yet decided whether to make the race for Senate. The Senate election will be held in the Fall of 1990. Sloane's Senate Exploratory Committee was formed in January of this year. No other Democrats have formed exploratory committees for the Fall.

Stimmet, L. J. Dr.	P.O. Box 1427	Corbin	KY	40701	Other	Chairperson	06/09/89	100.00	100.00
Stimmet, L. J. Dr.	4102 Woodbine Ln.	Louisville	KY	40220	Other	Member		25.00	25.00
Stenberg, David T.	314 Buckington Terrace	Louisville	KY	40222	Other	Attorney	06/15/88	9.25	9.25
Terry, Joseph H.	225 Langdon	Lexington	KY	40502	Other	Attorney	06/13/88	11.39	11.39
Thomas, Harold H.	200 Whittington Pkwy	Louisville	KY	40222	Other	Attorney at Law		100.00	100.00
Tracy, B. R. Dr.		Muscatville	KY	40407	Other	Chairperson	06/18/88	100.00	100.00
Varney, Claude P.	217 Virginia Ave	S. Williamson	KY	41503	Other	Vice-President	06/21/88	200.00	200.00
Wingard, Michael B.	1102 Glenview Ave	Louisville	KY	40202	Other	Attorney	06/13/89	11.39	11.39
Wise, David M.	1146 Turkeyfoot	Lexington	KY	40502	Other	Attorney	06/15/88	19.35	19.35
Wolfe, Robert S. III	121 South Main St.	Lexington	KY	40502	Other	Attorney	06/13/89	9.96	9.96
Ward, Larry E.	P.O. Box 1010	Paintsville	KY	41240	Other	County Ct Clerk	06/17/88	50.00	50.00
Ward, Richard C.	1109 Parkwood Road	Lexington	KY	40502	Other	Attorney	06/12/88	17.15	17.15
Wood, Tom	200 Main Road	Louisville	KY	40202	Other	Business	06/27/88	200.00	200.00
Wood, Jeff W.	1000 Sycamore Valley Rd	Lexington	KY	40502	Other	Attorney	06/12/88	9.15	9.15
Wright, Bob Dr.	1109 Parkwood Road	Louisville	KY	40202	Other	Chairperson	06/18/88	100.00	100.00
Wright, Bob	1109 Parkwood Road	Lexington	KY	40502	Other	Chairperson	06/09/88	100.00	100.00
Yelick, Joseph L.	1109 Parkwood Road	Lexington	KY	40502	Other	Attorney	06/13/88	11.39	11.39
Yelick, David W. III	1109 Parkwood Road	Louisville	KY	40202	Other	Chairperson	06/09/88	100.00	100.00
Yingling, Edgar H.	1109 Parkwood Road	Lexington	KY	40502	Other	Attorney	06/13/88	11.39	11.39
Zarich, James Dr.	4010 Dixie Rd	Louisville	KY	40202	Other	Chairperson	06/09/88	100.00	100.00

Member-Share for Senate Executive Committee

100.00 100.00

Representative House as P.O. in

Deane Political Fund	25 Louisville Ave SW	Washington	DC	20001	Other	Teachters' PAC	06/27/88	500.00	500.00
Deane, Electric PAC		Washington	DC	20001	Other	PAC	05/15/88	500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00

Member-Share for Senate Executive Committee

100.00 100.00

Representative House as P.O. in

Deane Political Fund	25 Louisville Ave SW	Washington	DC	20001	Other	Teachters' PAC	06/27/88	500.00	500.00
Deane, Electric PAC		Washington	DC	20001	Other	PAC	05/15/88	500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00
Dr. J. J. PAC	1000 Oak Court	Louisville	KY	40202	Other	PAC		500.00	500.00

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LYNCH, COX, GILMAN & MAHAN P.S.C.

1800 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
FAX (502) 589-4964

DONALD L. COX

ALSO ADMITTED U.S. PATENT OFFICE

September 23, 1988

INDIANA OFFICE
521 E. 7TH STREET
JEFFERSONVILLE, INDIANA 47102
TELEPHONE
(812) 283-7838

✓ Federal Election Commission
999 E Street, N.W.
Washington, DC 20462

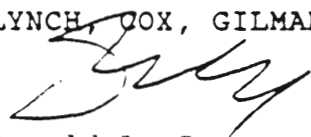
✓ Secretary of Senate
Office of Public Records
232 Hart Senate Office Building
Washington, D.C. 20510-7116

To Whom It May Concern:

Enclosed please find a Statement of Candidacy for Harvey Sloane. If you have any questions, please feel free to contact me.

Very truly yours,

LYNCH, COX, GILMAN & MAHAN, P.S.C.


Donald L. Cox

DLC/wc

Enclosures

o/s1

00004434460

Harvey I. Sloane, M.D.
1401 South Fourth Street
Louisville, Kentucky 40208

September 21, 1988

Federal Election Commission
Washington, D.C. 20463

To Whom It May Concern:

Enclosed please find my formal Statement of Candidacy. However, in filing this declaration, I want to make it clear that I am doing so only to comply with the technical aspects of the law. At this point, I have not yet made a determination about whether to in fact become a candidate for the Senate in 1990. However, in order to comply with the requirements of your statutes, I have determined to file the enclosed and to designate the Sloane for Senate Committee as my designated principal campaign committee.

If you have any questions please do not hesitate to contact my counsel, Mr. Donald L. Cox at 1800 Meidinger Tower, Louisville, Kentucky 40202, (502) 589-4215.

Sincerely,


Harvey I. Sloane, M.D.

Enclosure

9 0 0 4 0 7 0 4 4 5 1

STATEMENT OF CANDIDACY

(see reverse side for instructions)

1. (a) Name of Candidate (in full)
Harvey I. Sloane, M.D.
(b) Address (number and street) ☐ Check if address changed
1401 South Fourth Street
(c) City, State, and ZIP Code
Louisville, Kentucky 40202
2. Identification Number
3. Party Affiliation
Democratic
4. Office Sought
Senator
5. State & District of Candidate
Kentucky

DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1990 election's
(year of election)

NOTE: This designation should be filed with the appropriate office listed below.

(a) Name of Committee (in full)

Sloane for Senate Committee

(b) Address (number and street)

3500 First National Tower

(c) City, State and ZIP Code

Louisville, Kentucky 40202

DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

7. I hereby authorize the following named committee, which is NOT my principal campaign committee, to receive and expend funds on behalf of my candidacy.

NOTE: This designation should be filed with the principal campaign committee.

(a) Name of Committee (in full)

(b) Address (number and street)

(c) City, State and ZIP Code

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

Signature of Candidate

Date

Harvey I. Sloane *September 15, 1989*

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

CANDIDATES FOR THE OFFICE OF:

President mail to:

U.S. Senate mail to:

U.S. House of Representatives mail to:

For further information contact:

Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Secretary of the Senate
Office of Public Records
232 Hart Senate Office Bldg.
Washington, DC 20510-7116

Clerk of the House of Representatives
Office of Records and Registration
1036 Longworth Office Bldg.
Washington, DC 20515-6610

Federal Election Commission
Toll-free 800/424-9530
Local 202/376-3120

06C#1073

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM

LYNCH, COX, GILMAN & MAHAN P.S.C.

**1800 MEIDINGER TOWER
LOUISVILLE, KENTUCKY 40202
(502) 589-4215
FAX (502) 589-4984**

88 NOV 16 AM 10:54

DONALD L. COX

ALSO ADMITTED U.S. PATENT OFFICE

November 11, 1988

INDIANA OFFICE
521 E. 7TH STREET
JEFFERSONVILLE, INDIANA 47130
TELEPHONE
(812) 283-7838

Lois G. Lerner
Associate General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: MUR 2710

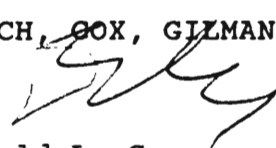
Dear Ms. Lerner:

In conjunction with the above-identified proceeding, we wish to bring to the Commission's attention MUR 2342 (involving the Chorba for Congress Committee), in which we believe, based on the documents available in the public file, that the FEC decided not to take action because the candidate had not yet attained candidate status as defined in 2 U.S.C. Section 431(2) and therefore was not required to file. As pointed out in our previous letter dated October 28, 1988, a similar result should obtain here. The Sloane for Senate Exploratory Committee clearly was an exploratory committee and Judge Sloane did not achieve candidate status until September of 1988.

If you have any questions, please contact me.

Respectfully submitted,

LYNCH, COX, GILMAN & MAHAN, P.S.C.


Donald L. Cox

DLC/wc

x/sl

88 NOV 16 AM 11:53

RECEIVED
FEDERAL ELECTION COMMISSION
JAN 27 1989

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE
EXECUTIVE SESSION

MUR #2710
DATE COMPLAINT RECEIVED FEB 07 1989
BY OGC: 9/30/88
DATE OF NOTIFICATION TO
RESPONDENTS: 10/11/88
STAFF MEMBER: Jacqueline
Jones-Smith

COMPLAINANT: Republican Party of Kentucky

RESPONDENTS: Judge Harvey Sloane;
Sloane for Senate Committee and Kevin
Hobbs, as treasurer

RELEVANT STATUTES:

- 2 U.S.C. § 431(2)
- 2 U.S.C. § 431(8)
- 2 U.S.C. § 431(9)
- 2 U.S.C. § 432(e)
- 2 U.S.C. § 432(e)(1)
- 2 U.S.C. § 434(a)(2)(B)(i)
- 2 U.S.C. § 437g(a)(5)(B)
- 11 C.F.R. § 100.7(b)(1)(i)
- 11 C.F.R. § 100.7(b)(1)(ii)(B)
- 11 C.F.R. § 100.8(b)(1)(i)
- 11 C.F.R. § 100.8(b)(1)(ii)(B)
- 11 C.F.R. § 104.1(b)
- 11 C.F.R. § 104.5(a)(2)(i)(A)
- 11 C.F.R. § 104.5(e)

INTERNAL REPORTS CHECKED: Public Record

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On September 30, 1988, the Commission received a complaint from the Republican Party of Kentucky alleging that the Sloane for

Senate Committee ¹ and Kevin Hobbs, as treasurer, violated 2 U.S.C. § 434(a)(2)(B)(i) by failing to file its 1988 Mid Year Report in a timely manner and that this violation was a knowing and willful violation of the Act. See 2 U.S.C. § 437g(a)(5)(B). Notification and a copy of the complaint were sent to respondents on October 11, 1988. A response and supplemental response were received from counsel for respondents on November 3, and November 16, 1988. (Attachments 1 and 2).

II. BACKGROUND

Harvey Sloane, the Judge Executive of Jefferson County, Kentucky, ("Judge Sloane") established the Harvey Sloane for Senate Exploratory Committee ("Exploratory Committee") to determine if he should become a candidate for the Democratic nomination for the U.S. Senate in 1990. ² On January 15, 1988, the Exploratory Committee filed a Statement of Organization as an exploratory committee with the Secretary of the Senate. (Attachment 3).

On July 15, 1988, the Exploratory Committee held a press conference and announced that it had raised \$212,000. On the

1. The complaint was originally filed against the Harvey Sloane for Senate Exploratory Committee. On October 6, 1988, the Exploratory Committee filed an amended Statement of Organization changing its name to the Sloane for Senate Committee.

2. Six days later, on January 21, 1988, the Republican Party of Kentucky filed a complaint with the Commission alleging that Judge Sloane was a "candidate" within the meaning of the Act and his failure to file a statement of Candidacy violated 2 U.S.C. § 432(e). (See MUR 2573). After considering the information in the complaint and in response thereto, the Commission found that it had no reason to believe the Act had been violated.

following day, the Louisville Courier-Journal printed an article that carried the Exploratory Committee's announcement of its fundraising results. (Attachment 1 at 8). The article reported that a spokesperson for the Exploratory Committee "released the report that he said will be filed next week with the Federal Election Commission." The article provided information apparently borrowed from the report, including a detailed list of individuals and PACs that made donations to the Exploratory Committee.

On September 27, 1988, Judge Sloane filed a Statement of Candidacy with the Commission designating the Sloane for Senate Committee as his principal campaign committee in the 1990 election. Three days later, on September 30, 1988, the instant complaint was filed alleging that the Exploratory Committee failed to timely file the 1988 Mid Year Report which was due on July 31, 1988.

On October 6, 1988, the Exploratory Committee filed an amended Statement of Organization changing its name to the Sloane for Senate Committee (the "Committee") and declaring itself to be Judge Sloane's principal campaign committee in the 1990 election. On October 10, 1988, the Committee filed the 1988 Mid Year Report with the Secretary of the Senate.

III. FACTUAL AND LEGAL ANALYSIS

The complaint appears to state two arguments. First, it argues that respondents were required to file the Mid Year Report and cannot avail themselves of the "testing the waters" exception to the reporting requirements because: (1) the Exploratory Committee filed a Statement of Organization with the Commission

and, as a registered political committee, was required to report and (2) respondents have amassed funds to be used by Judge Sloane as a candidate or in excess of what could reasonably be used for exploratory efforts. Second, it argues that respondents' failure to file the Mid Year Report was a knowing and willful violation of the Act.

A. Testing the Waters

Pursuant to 2 U.S.C. § 434(a)(2)(B)(i), in a non-election year, a candidate's principal campaign committee is required to file a Mid Year Report of contributions and expenditures no later than July 31st of that year. 2 U.S.C. § 431(2) defines "candidate" as "an individual who seeks nomination for election, or election, to Federal office." Under this section, an individual is deemed to be seeking nomination for election or election to Federal office if that individual or another person on his or her behalf has received contributions or made expenditures aggregating in excess of \$5,000, "contributions" and "expenditures" being defined as gifts given or payments made for the purpose of influencing an election to Federal office. See 2 U.S.C. §§ 431(8) and 431(9).

The Commission's regulations at 11 C.F.R. §§ 100.7(b)(1) and 100.8(b)(1) exempt from the definitions of "contribution" and "expenditure" funds which have been received or expended "solely for the purpose of determining whether an individual should become a candidate....," i.e., the so-called "testing the waters" exception. Under this exception, funds may be made available to individuals and expenditures may be made on their behalf for

exploratory purposes without triggering candidacy. The Commission has stated that the purpose of these regulatory provisions is to distinguish between activities directed at an evaluation of the feasibility of one's candidacy from conduct signifying that a private decision to become a candidate has been made. See Advisory Opinions ("AO"'s) 1979-26, 1985-40, 1 Fed. Election Camp. Fin. Guide [CCH] ¶¶ 5408, 5842. Once the individual attains candidate status under the Act, the "testing the waters" exception no longer applies, (See AO 1985-40), and all funds received and expended prior to candidacy must be reported to the Commission. 11 C.F.R. §§ 100.7(b)(1)(i), 100.8(b)(1)(i).

1. Registration With the Commission

Complainant's contention that respondents do not come within the "testing the waters" exception and are required to report solely because the Exploratory Committee filed a Statement of Organization with the Commission is without merit. The Commission's regulation at 11 C.F.R. § 104.1(b) provides that a committee of an individual who has not attained candidate status may voluntarily register with the Commission and report its receipts and disbursements; however, it is not required to do so.

The Statement of Organization filed by the Exploratory Committee shows that it registered as "an exploratory committee" of "potential candidate" Judge Sloane. (Attachment 3). In addition, the complainant has not alleged that Judge Sloane was a candidate at the time the Exploratory Committee registered with the Commission. Therefore, the Exploratory Committee's voluntary

registration with the Commission does not, by itself, create an obligation to file the Mid Year Report.

2. Amassing Funds

There appears to be some factual support for complainant's contention that respondents do not come within the "testing the waters" exception because they have amassed funds to be used when Judge Sloane becomes a candidate or in excess of what could reasonably be used for exploratory efforts.

The Commission has stated that an individual does not attain candidate status as long as he or she is engaged in "testing the waters" activities. However, the Commission has made it clear that the "testing the waters" exception does not include activities which indicate an individual has decided to become a candidate, including raising funds in excess of what could reasonably be expected to be used for exploratory activities or undertaking activities designed to amass campaign funds that will be spent after he or she becomes a candidate. 11 C.F.R. §§ 100.7(b)(1)(ii)(B), 100.8(b)(1)(ii)(B). The "testing the waters" exception applies as long as funds are received and spent by a committee solely for exploratory purposes. See AO's 1979-26; 1985-40.

The Mid Year Report shows approximately \$212,000 in receipts and \$26,000 in disbursements between January 1 and June 30, 1988. The report further shows approximately \$25,000 in receipts and approximately \$23,000 in itemized disbursements between January 1 and May 30, 1988. These itemized disbursements included reimbursements to Judge Sloane and payments to political

consultants and thus appear to be exploratory activities. Therefore, it appears that between January 1 and May 30, 1988, almost all funds received and spent by the Exploratory Committee were for exploratory purposes.

By contrast, the report also shows approximately \$186,000 in receipts during the month of June, 1988, but no disbursements. Therefore, it appears that funds received during the month of June, 1988, were not disbursed for exploratory activities. If the \$186,000 received was not spent by September 27, 1988, the date Judge Sloane actually filed his Statement of Candidacy and arguably the latest date for the end of the "testing the waters" exception, (See 11 C.F.R. §§ 100.7(b)(1)(i), 100.8(b)(1)(i); AO 1985-40), it would appear, inferentially, that these funds may have been in excess of what could reasonably be expected for exploratory efforts.

In addition, most of the June receipts appear to have been received in mid-June (June 13-17) and late June (June 26-30). This coincidence of large receipts at specific times of the month appears to indicate fundraising activity. Respondents admit, (Attachment 1 at 2), that they engaged in fundraising activities during this period but did not provide any information as to when these activities took place. Therefore, it would also appear, inferentially, that respondents may have been engaged in activity to amass funds to be used by Judge Sloane as a candidate.

Given the facts established thus far, it appears that respondents activities during the month of June, 1988, may not come within the "testing the waters" exception. If they did not,

the June receipts would constitute contributions, triggering the attainment of candidate status by Judge Sloane on or about June 12, 1988.³ See 2 U.S.C. §§ 431(2), 431(8). As a result, Judge Sloane was required to file a Statement of Candidacy pursuant to 2 U.S.C. § 432(e) by June 29, 1988, and his committee was required to file the Mid Year Report pursuant to 2 U.S.C. § 434(a)(2)(B)(i) by July 31, 1988.

Respondents present what appears to be a number of alternative arguments as to why they have not violated Section 434(a)(2)(B)(i). First, they argue (Attachment 1 at 4), that they were not required to file the Mid Year Report because Judge Sloane has not decided to become a candidate and, as a result, they are still engaged in exploratory activities. They further contend, in their supplemental response, (Attachment 2) that the Commission should take no action in this matter because Judge Sloane has not attained candidate status. In support of this argument they rely,

3. This date was derived from a review of the Mid Year Report for contributions of \$1,000 or more from the beginning of June until the \$5,000 candidate threshold was reached. The report showed the receipt of a \$1,000 contribution on June 9; three \$1,000 contributions on June 10; one \$1,000 contribution on June 11; and one \$100 contribution on June 12, 1988.

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in part,⁴ on a statement made by Judge Sloane in a letter which accompanied his Statement of Candidacy. (Attachment 1 at 21). In the letter Judge Sloane stated:

[I]n filing this declaration, I want to make it clear that I am doing so only to comply with the technical aspects of the law. At this point, I have not yet made a determination about whether to in fact become a candidate for the Senate in 1990. However, in order to comply with the requirements of your statutes, I have determined to file the enclosed and to designate the Sloane for Senate Committee as my designated principal campaign committee.

This argument is without merit. Section 432(e)(1) requires, inter alia, that a Statement of Candidacy be filed within fifteen days of becoming a candidate. In light of this and other evidence, it appears that Judge Sloane became a candidate for purposes of the Act. Therefore, it appears respondents were not under the "testing the waters" exception after September 27, 1988, because 11 C.F.R. §§ 100.7(b)(1)(i) and 100.8(b)(1)(i) clearly provide that if an individual becomes a candidate receipts and

4. Respondents also rely on AO 1981-32, 1 Fed. Election Camp. Fin. Guide [CCH] ¶ 5620, and contend that no statements have been made which refer to Judge Sloane as a candidate. Reliance on this advisory opinion is misplaced. The complaint does not allege that respondents may not avail themselves of the "testing the waters" exception because they have made statements which refer to Judge Sloane as a candidate. See 11 C.F.R. §§ 100.7(b)(1)(ii)(C), 100.8(b)(1)(ii)(C). The complaint alleges that respondents have amassed funds to be used by Judge Sloane as a candidate or in excess of what could reasonably be used for exploratory efforts. See 11 C.F.R. §§ 100.7(b)(1)(ii)(B), 100.8(b)(1)(ii)(B).

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disbursements are subject to the reporting requirements of the Act.

Second, respondents argue (Attachment 1 at 4-5) that they did not amass campaign funds or funds that are more than what could reasonably be expected to be used for exploratory efforts. In support of this argument they cite AO 1985-40 and state that complainants have not alleged that they have spent funds for purposes other than "testing the waters." This argument is also meritless. The complainant does not have to allege that respondents have actually spent the funds amassed for a campaign. Moreover, respondents fail to affirmatively state that they have spent the funds received for exploratory purposes. Indeed, they state (Attachment 1 at 5) that they have turned funds received over to Judge Sloane's principal campaign committee. This is evidence that the funds were amassed for the campaign.

Third, respondents argue (Attachment 1 at 3) that, even though they were not required to do so, a Mid Year report was timely filed on July 18, 1988. In support of this argument respondents state that the report was mailed by first class mail on July 18, 1988 and rely on the cover letter and the treasurer's affidavit that were filed with the Mid Year Report on October 10, 1988. (Attachment 1 at 19). The cover letter began:

Enclosed please find a second copy of the Report of Receipts and Disbursements for the Harvey Sloane for Senate Exploratory Committee. As shown by the face of this document, it was initially mailed on July 18, 1988.

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Attached to the cover letter was a copy of an affidavit of the treasurer that he personally mailed the report to the Secretary of the Senate on July 18, 1988. Although the face of the report showed the treasurer's signature date as July 18, 1988, there were no other postal markings or stamps indicating receipt of this report by the Secretary of the Senate. This argument also fails because first class mailing and the treasurer's affidavit are insufficient evidence of timely filing of the report. 11 C.F.R. § 104.5(e) provides that the filing date for a report is either the date received by the Commission or the date of the U.S. postmark on certified or registered mail.

Finally, respondents argue (Attachment 1 at 4) that even if there has been a reporting violation, it has been mooted by the fact that the report has been filed with the Commission. While the filing of the report may be considered by the Commission in mitigating the violation, it does not negate it.

Therefore, this Office recommends that the Commission find reason to believe: (1) that respondents Sloane for Senate Committee and Kevin Hobbs, as treasurer, violated 2 U.S.C. § 434(a)(2)(B)(i), and (2) that Judge Harvey Sloane violated 2 U.S.C. § 432(e). Because Judge Sloane was not named in the complaint and/or a violation of Section 432(e) not alleged, this finding is treated as internally generated.

B. Knowing and Willful Violation

The complainant contends that respondents failure to file the Mid Year Report was a knowing and willful violation of Section 434(a)(2)(B)(i) because respondents stated at the July 15th press

conference that they were going to file the report with the Commission and did not do so until October 10, 1988. A "knowing and willful" violation of the Act, which would justify the imposition of civil penalties under 2 U.S.C. § 437g(a)(5)(B), requires a finding of "defiance or such reckless disregard of the consequences as to be equivalent to a knowing, conscious and deliberate flaunting of the Act." AFL-CIO v. FEC, 628 F.2d 97, 101 (D.C. Cir.), cert. denied, 449 U.S. 982 (1980). Although it appears that respondents may have violated the Act, there appears to be no factual support for complainant's contention that respondents actions constituted "defiance" or "conscious and deliberate flaunting of the Act." To the contrary, the facts appear to indicate that respondents attempted to make full public disclosure of its receipts and disbursements.

First, it appears that a draft of the report or information apparently borrowed from the report, including a detailed list of contributors, was made available to the public at the press conference. In addition, some of this information was printed in the Louisville, Courier-Journal. (Attachment 1 at 8). Second, respondents voluntarily filed the Mid Year Report with the Commission, albeit some eight weeks late. Finally, the date in the treasurer's signature block on the Mid Year Report and the treasurer's affidavit indicate that an attempt may have been made to timely file the report with the Commission.

Accordingly, this Office does not recommend that the Commission find a knowing and willful violation of 2 U.S.C. § 434(a)(2)(B)(i).

IV. RECOMMENDATIONS

1. Find reason to believe that the Sloane for Senate Committee and Kevin Hobbs, as treasurer, violated 2 U.S.C. § 434(a)(2)(B)(i).
2. Find reason to believe that Judge Harvey Sloane violated 2 U.S.C. § 432(e).
3. Approve the attached letters and factual and legal analyses.
4. Approve the attached interrogatories and request for documents.

Lawrence M. Noble
General Counsel

Date

1/26/89

BY:


Lois G. Lerner
Associate General Counsel

Attachments

- 1- Response
- 2- Supplemental Response
- 3- Statement of Organization - Exploratory Committee
- 4- Proposed letters, factual and legal analyses, and interrogatories and request for documents

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FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEN *JM*
COMMISSION SECRETARY

DATE: FEBRUARY 1, 1989

SUBJECT: OBJECTIONS TO MUR 2710 - FIRST G. C. REPORT
SIGNED JANUARY 26, 1989

The above-captioned document was circulated to the
Commission on Monday, January 30, 1989 at 11:00 a.m..

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

Commissioner Aikens	<u>X</u>
Commissioner Elliott	<u></u>
Commissioner Josefiak	<u>X</u>
Commissioner McDonald	<u></u>
Commissioner McGarry	<u></u>
Commissioner Thomas	<u>X</u>

This matter will be placed on the meeting agenda
for February 7, 1989.

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

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Judge Harvey Sloane) MUR 2710
Sloane for Senate Committee)
and Kevin Hobbs, as)
treasurer)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session of February 7, 1989, do hereby certify that the Commission decided by a vote of 6-0 to reject the recommendations contained in the General Counsel's report dated January 26, 1989, and instead take the following actions in MUR 2710:

1. Find no reason to believe that the Sloane for Senate Committee and Kevin Hobbs, as treasurer, violated 2 U.S.C. § 434(a)(2)(B)(i).
2. Find no reason to believe that Judge Harvey Sloane violated 2 U.S.C. § 432(e).
3. Close the file.
4. Direct the Office of General Counsel to send an appropriate letter pursuant to the above actions.

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

Attest:

2/7/89

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 16, 1989

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Bob Gable, State Chairman
Republican Party of Kentucky
Capitol Avenue at Third Street
PO Box 1068
Frankfort, KY 40602

RE: MUR 2710

Dear Mr. Gable:

This is in reference to the complaint you filed with the Federal Election Commission on September 30, 1988, concerning an allegation that the Sloane for Senate Committee (the "Committee") failed to timely file the 1988 Mid Year Report.

Based on that complaint, on February 7, 1989, the Commission found that there was no reason to believe that the Committee and Kevin Hobbs, as treasurer, violated 2 U.S.C. § 434(a)(2)(B)(i). Enclosed is a copy of the First General Counsel's Report and Certification. A Statement of Reasons concerning the Section 434(a)(2)(B)(i) finding will be forwarded to you at a later date.

This matter will become part of the public record within 30 days. The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

If you have any questions, please contact Jacqueline Jones-Smith, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosures
First General Counsel's Report
Certification

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

February 16, 1989

Donald L. Cox, Esquire
Lynch, Cox, Gilman & Mahan, P.S.C.
1800 Meidinger Tower
Louisville, KY 40202

RE: MUR 2710
Sloane for Senate
Committee and Kevin
Hobbs, as treasurer

Dear Mr. Cox:

On October 11, 1988, the Federal Election Commission notified your clients, the Sloane for Senate Committee and Kevin Hobbs, as treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On February 7, 1989, the Commission found, on the basis of the information in the complaint, and information provided by your clients that there is no reason to believe your clients violated 2 U.S.C. § 434(a)(2)(B)(i). Accordingly, the Commission closed its file in this matter. Enclosed is a copy of the First General Counsel's Report and Certification. A Statement of Reasons concerning the Section 434(a)(2)(B)(i) finding will be forwarded to you at a later date.

This matter will become a part of the public record within 30 days. If you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Please send such materials to the Office of the General Counsel.

If you have any questions, please contact Jacqueline Jones-Smith, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
First General Counsel's Report
Certification

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 2710

DATE FILMED 3/13/89 CAMERA NO. 3

CAMERAMAN AS

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FEDERAL ELECTION COMMISSION

WASHINGTON D C 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE FILE IN

MUR 2710

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

MEMORANDUM

TO: THE COMMISSIONERS
EX-OFFICIO
STAFF DIRECTOR
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/JOSHUA MCFADDEY *JM*

DATE: MARCH 2, 1989

SUBJECT: STATEMENT OF REASONS FOR MUR 2710

Attached is a copy of the signed Statement of
Reasons in MUR-2710 received in the Commission
Secretary's Office March 2, 1989 at 11:45 a.m.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)

Judge Harvey Sloane)

MUR 2710

Sloane for Senate Committee and)

Kevin Hobbs, as treasurer)

STATEMENT OF REASONS

On February 7, 1989, the Federal Election Commission rejected the recommendations of the Office of the General Counsel to find reason to believe that the Sloane for Senate Committee and Kevin Hobbs, as treasurer, violated 2 U.S.C. §434(a)(2)(B)(i), and that Judge Harvey Sloane violated 2 U.S.C. §432(e).

In MUR 2710, the Commission reviewed allegations that activity conducted by Judge Sloane in considering a 1990 candidacy for the U.S. Senate had, by July of 1988, exceeded that type of "testing-the-waters" activity exempted from reporting obligations under the Commission's regulations at 11 CFR §§100.7(b)(1) and 100.8(b)(1).^{*} Specifically, the complaint alleged that Judge Sloane was required to have filed a Statement of Candidacy and to have registered and filed reports for an authorized candidate committee by that time, prior to his actual declaration of candidacy, because: 1) he had filed a statement of organization for an "exploratory committee" with the Commission and had thereby incurred a continuing reporting obligation, and 2) the exploratory committee had exceeded the level of activity exempted under the "testing-the-waters" regulations by having raised funds in

^{*} On September 27, 1988, Judge Sloane filed a Statement of Candidacy with the Commission designating the Sloane for Senate Committee as his principal campaign committee. On October 6, 1988, his exploratory committee filed an amended Statement of Organization changing its name to the Sloane for Senate Committee. On October 10, 1988, the Sloane for Senate Committee filed a 1988 Mid Year Report with the Commission.

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STATEMENT OF REASONS -- MUR 2710

Page Two

excess of what could reasonably be used for exploratory efforts and by having "amassed campaign funds" for use upon declaring candidacy.

The Commission agreed with the General Counsel's legal conclusion that the voluntary filing of a statement of organization by an "exploratory committee" does not itself create an obligation to file periodic reports required of candidate committees under the Act. The Commission disagreed, however, with the General Counsel's conclusion that the facts and circumstances were sufficient to indicate that Judge Sloane's exploratory committee had raised funds in excess of what could reasonably be expected to be used for exploratory activities and that it had undertaken activities designed to "amass campaign funds" for use upon the filing of candidacy.

The Commission concluded that funds raised for "testing-the-waters" activity should not necessarily or presumptively be considered excessive or the "amassing of campaign funds," nor should candidacy be imputed, solely because funds raised for the exploratory effort may not be entirely spent during the reporting period in which they were raised, or because a particular fundraising activity may be more successful in generating funds than expected or immediately needed, or because an exploratory committee eventually transfers its unspent funds to a successor authorized committee upon declaring candidacy.

The significance of such factual elements would depend upon other or subsequent activity of the potential candidate, such as a decision not to become a candidate, the eventual making of further "testing-the-waters" expenditures or, as here, a declaration of candidacy within a reasonable period of time after substantial fundraising

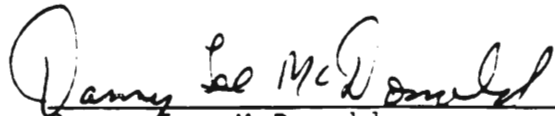
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STATEMENT OF REASONS -- MUR 2710
Page Three

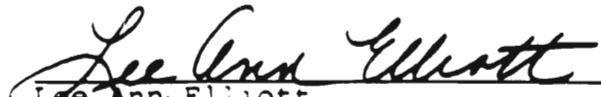
success. Conversely, evidence of continuing and sustained fundraising activity without expenditures related to exploring a potential candidacy would serve to support the inference of 'amassing' funds.

In this matter, the Commission also took note of the voluntary efforts by Judge Sloane's exploratory committee to report "testing-the-waters" financial activity regarding a potential 1990 candidacy, and its assertions that such reports were submitted (though not received by the Commission) within the time period within which a candidate's authorized committee would have had to file.

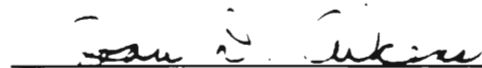
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Denny Lee McDonald
Chairman

3-2-89


Lee Ann Elliott
Vice Chairman

March 1, 1989


Joan D. Aikens
Commissioner

3/1/89


Thomas J. Josefiak
Commissioner

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STATEMENT OF REASONS -- MUR 2710
Page Four

3/2/89

John Warren McGarry
John Warren McGarry
Commissioner

3/1/89

Scott E. Thomas
Scott E. Thomas
Commissioner

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FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

THE FOLLOWING MATERIAL IS BEING ADDED TO THE
PUBLIC FILE OF CLOSED MUR 2710 .

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

March 15, 1989

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Mr. Bob Gable, State Chairman
Republican Party of Kentucky
Capitol Avenue at Third Street
P.O. Box 1068
Frankfort, Kentucky 40602

RE: MUR 2710

Dear Mr. Gable:

By letter dated February 16, 1989, the Office of the General Counsel informed you of determinations made with respect to the complaint filed by you against the Sloan for Senate Committee. Enclosed with that letter were copies of the First General Counsel's Report and Certification.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe the Sloan for Senate Committee and Kevin Hobbs, as treasurer violated 2 U.S.C. § 434(a)(2)(B)(i). This document will be placed on the public record as part of the file of MUR 2710.

If you have any questions, please contact Jacqueline Jones-Smith, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

A handwritten signature in dark ink, appearing to read "Lois G. Lerner", is written over the typed name of the Associate General Counsel.

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Statement of Reasons

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20461

March 15, 1989

Donald L. Cox, Esquire
Lynch, Cox, Gilman
and Mahan, P.S.C.
1800 Meidinger Tower
Louisville, KY 40202

RE: MUR 2710
Sloane for Senate
Committee and Kevin
Hobbs, as treasurer

Dear Mr. Cox:

By letter dated February 16, 1989, the Office of the General Counsel informed you of determinations made with respect to the complaint filed against your clients, the Sloane for Senate Committee and Kevin Hobbs, as treasurer. Enclosed with that letter were copies of the First General Counsel's Report and Certification.

Enclosed please find a Statement of Reasons adopted by the Commission explaining its decision to find no reason to believe your clients violated 2 U.S.C. § 434(a)(2)(B)(i). This document will be placed on the public record as part of the file of MUR 2710.

If you have any questions, please contact Jacqueline Jones-Smith, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
Statement of Reasons

89040752202



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 2701.

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CLOSED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 7, 1990

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Gerald W. Crawford, Esq.
Neiman, Neiman, Stone & Spellman
1119 High Street
Des Moines, IA 50308-2674

RE: MUR 2701

Dear Mr. Crawford:

On December 1, 1989, the Federal Election Commission and the Iowa Democratic Party and Charles A. Hanson, as treasurer, entered into a conciliation agreement in settlement of violations of 2 U.S.C. §§ 441a(f) and 441d(a), provisions of the Federal Election Campaign Act of 1971, as amended. According to the agreement, you were required to pay a civil penalty of \$500.

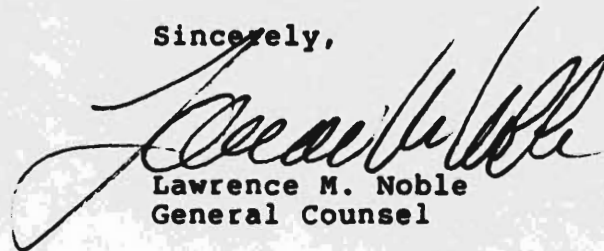
According to Commission records, your payment has not been received. Please be advised that, pursuant to 2 U.S.C. § 437g(a)(5)(D), violation of any provision of the conciliation agreement may result in the institution of a civil suit for relief in the United States District Court. Unless we receive the payment from you in five days, this Office will recommend that the Commission file suit to remedy this violation.

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Gerald W. Crawford, Esq.
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Should you have any questions, please contact Frania
Monarski, the attorney assigned to this matter, at (202)
376-8200.

Sincerely,

A handwritten signature in dark ink, appearing to read "Lawrence M. Noble", is written over the typed name and title.

Lawrence M. Noble
General Counsel

90040703825