



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3208

DATE FILMED 5-27-72 CAMERA NO. 1

CAMERAMAN E.E.S.

92040902005

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 30 October 1990

ANALYST: Pat Sheppard

I. COMMITTEE: Senate Committee for Bo Thomas
(C00238287)
Sara L. Massagee, Treasurer^{1/}
P.O. Drawer 220
Hendersonville, NC 28793

II. RELEVANT STATUTE: 2 U.S.C. §434(a)(6)
11 CFR §104.5(f)

III. BACKGROUND:

Failure to File Forty-Eight Hour Notifications

The Senate Committee for Bo Thomas ("the Committee") has failed to file the required Forty-Eight (48) Hour Notifications ("48-Hour Notices") for five (5) contributions/loans totaling \$345,000 received prior to the 1990 Primary Election.

The candidate was involved in the 1990 Primary Election held on May 8, 1990. Prior Notice was sent to the Committee on April 2, 1990 (Attachment 2). The Notice includes a section titled "Last-Minute Contributions". This section reads "Committees must also file special notices on contributions of \$1,000 or more, received during the period April 19 through May 5, 1990. The notice must reach the appropriate federal and state offices within 48 hours of the committee's receipt."

^{1/} In the Committee's October 9, 1990 response to the Commission, the assistant treasurer stated that "the treasurer has since taken a position in another city"; however, she failed to provide the name of the new treasurer. Until documentation is received designating a new treasurer, it is the suggestion of the Reports Analysis Division that all correspondence be addressed to Margaret S. Thomas, Assistant Treasurer.

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Schedule C of the Committee's 1990 July Quarterly Report discloses the receipt of loans totaling \$347,600 with a receipt date as April and May/1990 (Attachment 3). This indicated that the Committee may have failed to file at least one (1) 48-Hour Notice for a contribution/loan received during the aforementioned period. The Committee failed to provide a supporting Schedule A to itemize the loans.

On September 25, 1990, a Request for Additional Information ("RFAI") was sent to the Committee (Attachment 4). The RFAI requested that the Committee provide a Schedule A to itemize the receipt of the loans. In addition, the RFAI noted on an informational basis that the Committee may have failed to file one or more of the required 48-Hour Notices for "last minute" contributions of \$1,000 or more. The notice requested the Committee to review their procedures for checking contributions received during the aforementioned time period. In addition, the notice stated that although the Commission may take legal steps, any response would be taken into consideration.

On October 9, 1990, the Committee filed an Amended July Quarterly Report (Attachment 5). The Committee provided the omitted Schedule A itemizing the loans. This disclosed that the Committee failed to file five (5) 48-Hour Notices for contributions/loans received during the aforementioned period. The Committee stated that there were only two (2) contributions that required a 48-Hour Notice. The following is a list of the contributions/loans for which no 48-Hour Notices were filed:

<u>Contributor Name</u>	<u>Date</u>	<u>Amount</u>
Royce P. Thomas	4/19/90	\$165,000
Royce P. Thomas	4/23/90	\$ 5,000
Royce P. Thomas	4/27/90	\$165,000
Royce P. Thomas	5/03/90	\$ 3,500
Royce P. Thomas	5/04/90	\$ 6,500

On October 11, 1990, the analyst attempted to contact the assistant treasurer by phone to provide further clarification on the omitted 48 Hour Notices. However, the analyst was told by an employee that Ms. Thomas was out of town (Attachment 6).

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

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FEDERAL ELECTION COMMISSION
1989-1990
CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

DATE 18OCT90

CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES TYPE OF FILER	MICROFILM LOCATION
			PRIMARY	GENERAL	PRIMARY	GENERAL			
THOMAS, R P (BO)	SENATE	DEMOCRATIC PARTY							
1. STATEMENT OF CANDIDATE									
1989 STATEMENT OF CANDIDATE							31AUG89	1	89SEN/009/0673
2. PRINCIPAL CAMPAIGN COMMITTEE									
SENATE COMMITTEE FOR BO THOMAS							ID #C00238287		SENATE
1989 STATEMENT OF ORGANIZATION							31AUG89	3	89SEN/009/0675
STATEMENT OF ORGANIZATION - AMENDMENT							11DEC89	3	89SEN/010/0848
YEAR-END			102,623		87,349		1JUL89 - 31DEC89	23	90SEN/005/3514
YEAR-END - AMENDMENT			-		-		1JUL89 - 31DEC89	3	90SEN/006/2850
REQUEST FOR ADDITIONAL INFORMATION							1JUL89 - 31DEC89	2	90FEC/630/3669
1990 48 HOUR CONTRIBUTION NOTICE							7MAY90	3	90SEN/009/1556
APRIL QUARTERLY			98,987		111,670		1JAN90 - 31MAR90	27	90SEN/007/3929
1 ST LETTER INFORMATIONAL NOTICE							1JAN90 - 31MAR90	1	90FEC/639/2709
PRE-PRIMARY			217,157		217,804		1APR90 - 18APR90	13	90SEN/009/1016
PRE-PRIMARY - AMENDMENT			217,157		217,804		1APR90 - 18APR90	14	90SEN/009/1485
NOTICE OF FAILURE TO FILE							1APR90 - 18APR90	1	90FEC/638/3905
JULY QUARTERLY			374,754		375,866		19APR90 - 30JUN90	20	90SEN/012/0970
JULY QUARTERLY - AMENDMENT			-		-		19APR90 - 30JUN90	7	90SEN/016/0724
REQUEST FOR ADDITIONAL INFORMATION							19APR90 - 30JUN90	2	90FEC/657/1264
TERMINATION REPORT			850		1,681		1JUL90 - 7SEP90	9	90SEN/016/0338
TOTAL			794,371	0	794,370	0		131	TOTAL PAGES
3. AUTHORIZED COMMITTEES									
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN									

ALL REPORTS HAVE BEEN REVIEWED

CASH ON HAND AS OF 9/7/90 - \$0

DEBTS OWED AS OF 9/7/90 - \$0

REPORT NOTICE

FEDERAL ELECTION COMMISSION

NORTH CAROLINA

April 2, 1990

FOR COMMITTEES ONLY INVOLVED IN THE PRIMARY (05/08/90):

REPORT	REPORTING PERIOD ¹ /	REG./CERT. MAILING DATE ² /	FILING DATE
PRE-PRIMARY	04/01/90- 04/18/90	04/23/90	04/26/90
JULY QUARTERLY	04/19/90- 06/30/90	07/15/90	07/15/90

FOR COMMITTEES INVOLVED IN BOTH THE PRIMARY (05/08) AND RUN-OFF (06/05):

REPORT	REPORTING PERIOD ¹ /	REG./CERT. MAILING DATE ² /	FILING DATE
PRE-PRIMARY	04/01/90- 04/18/90	04/23/90	04/26/90
PRE-RUN-OFF	04/19/90- 05/16/90	05/21/90	05/24/90
JULY QUARTERLY	05/17/90- 06/30/90	07/15/90	07/15/90

WHO MUST FILE

PRINCIPAL CAMPAIGN COMMITTEES OF CONGRESSIONAL "CANDIDATES" who seek nomination in the May 8, 1990, North Carolina Primary and, if held, the June 5, 1990, Run-off.

WHAT MUST BE REPORTED

All financial activity that occurred during the reporting period (or before, if not previously reported).

REPORTING FORMS

Candidate committees use Form 3 (enclosed). If the campaign has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 32.

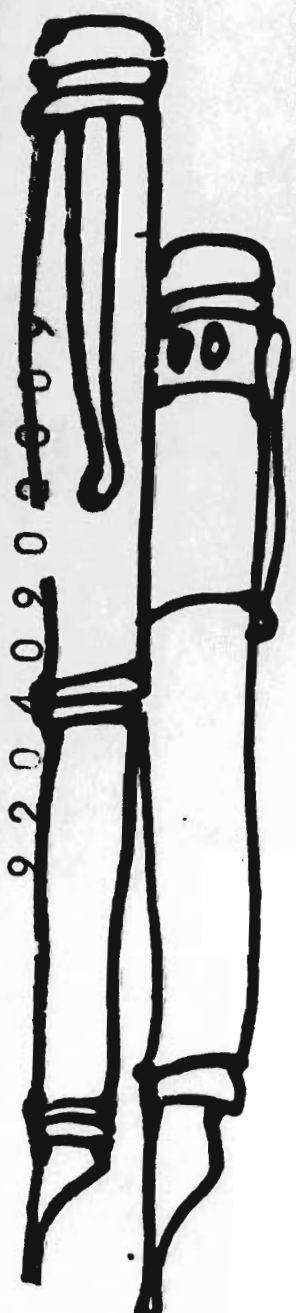
WHERE TO FILE

Consult the instructions on the back of the Form 3 Summary Page. Note state filing requirements also.

1/The period begins with the close of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

2/Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

FOR INFORMATION, Call: 202/376-3120 or 800/424-9530
(over)



NORTH CAROLINA

LABEL

Committees should affix the peel-off label from the envelope to Line 1 of the report. Corrections should be made on the label.

LAST-MINUTE CONTRIBUTIONS

Committees must also file special notices on contributions of \$1,000 or more, received during the following periods:

- o For candidates involved in the Primary: 04/19/90 through 05/05/90
- o For candidates involved in the Run-off: 05/17/90 through 06/02/90

The notice must be filed within 48 hours of

the appropriate federal and state officer's receipt.

COMPLIANCE

TREASURERS OF POLITICAL COMMITTEES ARE RESPONSIBLE FOR FILING ALL REPORTS OF THE COMMITTEE. FAILURE TO DO SO IS SUBJECT TO ENFORCEMENT ACTION. COMMITTEES FILING ILLEGIBLE REPORTS OR USING NON-FEC FORMS WILL BE REQUIRED TO REFILE.

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SCHEDULE C
(Revised 3/80)

LOANS

1990 July Quarterly Report

Attachment # 3

Page 1 of 1

Name of Committee (in Full)			
Senate Committee for Bo Thomas C00238287			
A. Full Name, Mailing Address and ZIP Code of Loan Source		Original Amount of Loan	Cumulative Payments To Date
Royce P. Thomas (Personal Funds) 832 - 4th Avenue West Hendersonville, NC 28739		\$213,800.00	-0-
Election: ☒ Primary ☐ General ☐ Other (specify):		Balance Outstanding at Close of This Period	
Terms: Date Incurred <u>Apr 1990</u> Date Due <u>none</u> Interest Rate <u>0</u> % (apr) ☐ Secured		\$213,800.00	
List All Endorsers or Guarantors (if any) to Item A			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
B. Full Name, Mailing Address and ZIP Code of Loan Source		Original Amount of Loan	Cumulative Payments To Date
Royce P. Thomas (Personal Funds) 832 - 4th Avenue West Hendersonville, NC 28739		\$347,600.00	-0-
Election: ☒ Primary ☐ General ☐ Other (specify):		Balance Outstanding at Close of This Period	
Terms: Date Incurred <u>Apr/May 90</u> Date Due <u>none</u> Interest Rate <u>0</u> % (apr) ☐ Secured		\$347,600.00	
List All Endorsers or Guarantors (if any) to Item B			
1. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
2. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
3. Full Name, Mailing Address and ZIP Code		Name of Employer	
		Occupation	
		Amount Guaranteed Outstanding: \$	
SUBTOTALS This Period This Page (optional)			\$561,400.00
TOTALS This Period (last page in this line only)			\$714,500.00
Carry outstanding balance only to LINE 3, Schedule D, for this line. If no Schedule D, carry forward to appropriate line of Summary.			

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PRS



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20541

BQ-2

SEP 25 1990

Sara L. Massaguee, Treasurer
Senate Committee for Bo Thomas
P.O. Drawer 220
Hendersonville, NC 28793

Identification Number: C00238287

Reference: July Quarterly Report (4/19/90-6/30/90)

Dear Ms. Massaguee:

This letter is prompted by the Commission's preliminary review of the report(s) referenced above. The review raised questions concerning certain information contained in the report(s). An itemization follows:

-Please provide a Schedule A to support the amount reported on Line 13(a) of the Detailed Summary Page. Each person who makes a loan to your committee or to the candidate acting as an agent of the committee must be reported on Schedule A and Schedule C. The itemization on Schedule A must include the person's full name, mailing address and zip code, along with the name of his/her employer, the date of the contribution/loan and the aggregate year-to-date amount of contributions made by the person. Schedule C must include any endorser or guarantor of the loan, the date the loan was made and all other terms of the loan. If the loan is from the candidate, you must indicate if it is from his/her personal funds. (11 CFR §104.3(a)(4)(iv))

-When several loans are owed by the same person or bank, you must report each loan separately, including the original date, the amount, the outstanding balance and all other terms. These loans should not be combined into a single figure. Please amend your report to clarify this matter.

-Schedule A of your report indicates that your committee may have failed to file one or more of the required 48 hour notices regarding "last minute" contributions/loans received by your committee after the close of books for the 12 Day Pre-Primary report. A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution/loan of \$1,000 or more

received between two and twenty days before an election. These contributions/loans are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions/loans of \$1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions/loans received during the aforementioned time period. Although the Commission may take legal action, any response you wish to make concerning this matter will be taken into consideration.

(11 CFR §104.5(f))

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Pat Sheppard

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

NC DEM C1981

Bo Thomas

U.S. Senate

RECEIVED.
SECRETARY OF THE SENATE

90 OCT -9 11:13 45

ended 1990 July Quarterly Rpt

Attachment # 5

Page 1 of 2

P.O. Drawer 220, Hendersonville, NC 28793

HAND DELIVERED ☐

October 3, 1990

Secretary of the Senate
232 Hart Senate Office Building
Washington, DC 20510

Identification Number: C00238287

Reference: July Quarterly Report (4/19/90-6/30/90)

Dear Sir or Madam:

9 29040290126017424
With reference to letter of September 25, 1990, of Ms. Pat Sheppard, Senior Reports Analyst of the Federal Election Commission, please find enclosed a Schedule A showing Loans Made or Guaranteed by the Candidate, to support Line 13(a) of the Detailed Summary Page. These loans were all from the personal funds of the candidate. Please consider the enclosed Schedule A as an amendment and clarification of the July Quarterly Report (4/19/90-6/30/90).

Page 24 of the Campaign Guide of July, 1988, states that last-minute contributions of \$1,000.00 or more, received after the 20th day, but no more than 48 hours before an election, must be reported within 48 hours of receipt. There were only two such contributions, and notification by Federal Express was made within 24 hours of receipt of the two \$1,000.00 contributions. Please see copy of letter and copy of Federal Express mailing receipt enclosed. Please also find enclosed copy of bill for this mailing from Federal Express.

Prior to receiving Ms. Sheppard's letter, our Committee filed a termination report, which may need clarification as to Line 10 of the Summary. This amount of \$722,576.12 was all from personal funds of the candidate loaned to the Committee. It appears unlikely that any of these loans will ever be repaid, and we are thereby requesting termination.

The undersigned, who is Assistant Treasurer, filed both the report of 4/19/90 thru 6/30/90, and the termination report in the absence of the Treasurer, Sara L. Massagee, who was in the hospital when the 4/19/90 thru 6/30/90 report was due and has since taken a position in another city.

Yours very truly,

SENATE COMMITTEE FOR BO THOMAS

Margaret S. Thomas

Margaret S. Thomas
Assistant Treasurer

mst
Encls.

cc: Ms. Pat Sheppard

SCHEDULE A

ITEMIZED RECEIPTS

Added 1990 July Quarterly Rpt

Attachment # 5

Page 2 of 2

Loans Made or Guaranteed by the Candidate

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)

Senate Committee for Bo Thomas C00238287

A. Full Name, Mailing Address and ZIP Code Royce P. Thomas (Personal Funds) 832 - 4th Ave. West Hendersonville, NC 28739	Name of Employer Thomas Produce Co.	Date (month, day, year) 4-19-90 4-23-90 4-27-90 5- 2-90	Amount of Each Receipt this Period \$165,000.00 5,000.00 165,000.00 100.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation Produce Broker	Aggregate Year-to-Date > \$ 625,900.00	
B. Full Name, Mailing Address and ZIP Code Royce P. Thomas (Personal Funds) 832 - 4th Ave. West Hendersonville, NC 28739	Name of Employer Thomas Produce Co.	Date (month, day, year) 5- 3-90 5- 4-90 5- 8-90 5-15-90	Amount of Each Receipt this Period \$ 3,500.00 6,500.00 500.00 2,000.00
Receipt For: ☒ Primary ☐ General ☐ Other (specify):	Occupation Produce Broker	Aggregate Year-to-Date > \$ 638,400.00	
C. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation	Aggregate Year-to-Date > \$	
D. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation	Aggregate Year-to-Date > \$	
E. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation	Aggregate Year-to-Date > \$	
F. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation	Aggregate Year-to-Date > \$	
G. Full Name, Mailing Address and ZIP Code	Name of Employer	Date (month, day, year)	Amount of Each Receipt this Period
Receipt For: ☐ Primary ☐ General ☐ Other (specify):	Occupation	Aggregate Year-to-Date > \$	

SUBTOTAL of Receipts This Page (optional)

TOTAL This Period (last page this line number only)

\$347,600.00

980400020755

ATTACHMENT # 6
PAGE 1 OF 1

MEMORANDUM TO FILES:
XX Telecon
Visit

DATE: October 11, 1990

NAME OF THE COMMITTEE: Senate Committee for Bo Thomas

SUBJECT: 48 Hour Notifications

FEC REP: Pat Sheppard

COMMITTEE REP: (704) 692-2024

I called Ms. Margaret Thomas, the assistant treasurer of the Committee to provide her with further clarification on the omitted 48 Hour Notices. I was told by an employee of hers that both Mr. and Mrs. Thomas were out of town and would not return until the 22nd of October.

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 DEC 20 AM 11:27

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

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

RAD Referral # 90L-53
STAFF MEMBER: J. Albert Brown

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

RESPONDENTS: Senate Committee for Bo Thomas
and its treasurer¹

RELEVANT STATUTES: 2 U.S.C. § 434(a)(6)
11 C.F.R. § 104.5(f)

INTERNAL REPORTS CHECKED: Referral Material
Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Office of the General Counsel received a referral from the RAD on October 31, 1990. Attachment I. The basis of the attached referral is the failure of the Committee to file timely forty-eight hour notifications ("48 Hour Notices") for five (5) contributions/loans totaling \$345,000.

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the "Act"), requires a federal candidate's principal campaign committee to notify either the Clerk of the House, Secretary of

1. The Senate Committee for Bo Thomas (the "Committee") informed the Reports Analysis Division ("RAD") that its treasurer of record, Sara Massagee, has taken a position in another city; but no new treasurer was named. While the Committee has an assistant treasurer, Margaret S. Thomas, the identity of the current committee treasurer remains unclear, and is discussed below.

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the Senate or the Commission (and the appropriate Secretary of State), in writing, of each contribution totaling \$1,000 or more received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.

2 U.S.C. § 434(a)(6)(A). The Act further requires this notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate, identification of the contributor, the date of receipt and the amount of the contribution. Id. According to the Act a contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. See 2 U.S.C. § 431(8)(A). Timely disclosure of such contributions, pursuant to 2 U.S.C. § 434(a)(6)(A), is in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

The Act requires every political committee to have a treasurer. See 2 U.S.C. § 432(a). The name and address of that treasurer are revealed on each committee's statement of organization, and the Act requires that any change of information contained in that statement shall be updated "no later than 10 days after the date of the change." 2 U.S.C. § 433.

Royce P. Thomas (Bo Thomas) was a Democratic candidate for the U.S. Senate in North Carolina's May 8, 1990 Primary Election. According to the Statement of Organization filed with the Commission on August 31, 1989, the Senate Committee for Bo Thomas (the "Committee") is the authorized principal campaign committee of Bo Thomas and Sara L. Massagee is that committee's treasurer.

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Pursuant to 2 U.S.C. § 434(a)(6)(A), the Committee was required to notify the Commission, in writing, of all contributions of \$1,000 or more received from April 19, 1990 to May 5, 1990. On April 2, 1990, the committee was reminded by the Commission that the receipt of contributions of \$1,000 or more, received during the period of April 19, 1990 through May 5, 1990 must be reported to the appropriate federal and state offices within 48 hours of the committee's receipt.

The Committee's 1990 July Quarterly Report disclosed loans totaling \$347,600 during April and May of 1990, which indicated that at least one (1) 48-Hour Notice had failed to be filed. A subsequent response to a Commission Request for Additional Information ("RFAI") showed that the Committee received the following five (5) loans from Royce P. Thomas totaling \$345,000 during the aforementioned time period that required 48 Hour Notices:

<u>Date</u>	<u>Amount</u>
4/19/90	\$165,000
4/23/90	\$5,000
4/27/90	\$165,000
5/03/90	\$3,500
5/04/90	\$6,500

The Committee asserted in its response to the RFAI that there were only two (2) contributions that required a 48-Hour Notice. The Commission was not aware that any of the above loans

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required 48 Hour Notice filings until October 9, 1990, when the Committee filed an Amended July Quarterly Report containing the omitted Schedule A which itemized the loans.

Under 2 U.S.C. § 433(c) the committee is required to report any change in information previously submitted in a statement of organization within 10 days after the date of the change.

According to correspondence between the Reports Analysis Division ("RAD") and the Committee, there is an indication that Sara Massagee may no longer be the treasurer of the Senate Committee for Bo Thomas, as reflected on the statement of organization. The Commission has not been notified of any change of treasurer in accordance with 2 U.S.C. § 433(c).

As a result of the facts discussed above, this Office recommends that the Commission find reason to believe that the Senate Committee for Bo Thomas and its treasurer, violated 2 U.S.C. §§ 433(c) & 434(a)(6)(A).

III. RECOMMENDATIONS

1. Open a MUR.
2. Find reason to believe that the Senate Committee for Bo Thomas and its treasurer violated 2 U.S.C. §§ 433(c) and 434(a)(6)(A).
3. Approve the appropriate letter and Factual and Legal Analysis.

Lawrence M. Noble
General Counsel

12/18/90
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:

1. Referral Materials
2. Factual and Legal Analysis

92040902020

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Senate Committee for Bo Thomas
and its treasurer.

)
)
)
)

RAD Referral 90L-53

(MUR)
3208

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 24, 1990, the Commission decided by a vote of 4-0 to take the following actions in RAD Referral 90L-53:

1. Open a MUR.
2. Find reason to believe that the Senate Committee for Bo Thomas and its treasurer violated 2 U.S.C. §§ 433(c) and 434(a)(6)(A).
3. Approve the appropriate letter and Factual and Legal Analysis, as recommended in the General Counsel's Report dated December 19, 1990.

Commissioners Aikens, Ellliott, McDonald, and McGarry voted affirmatively for the decision; Commissioners Josefiak and Thomas did not cast votes.

Attest:

12-26-90
Date

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

Received in the Secretariat: Thurs., Dec. 20, 1990 11:27 a.m.
Circulated to the Commission Thurs., Dec. 20, 1990 4:00 p.m.
Deadline for vote: Mon., Dec. 24, 1990 4:00 p.m.

dr

92040902021



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

January 2, 1991

Sara L. Massagee
P.O. Drawer 220
Hendersonville, NC
28793

RE: MUR 3208
Senate Committee for
Bo Thomas and its treasurer

Dear Ms. Massagee:

On December 24, 1990, the Federal Election Commission found that there is reason to believe that the Senate Committee for Bo Thomas (the "Committee") and its treasurer violated 2 U.S.C. §§ 433(c) & 434(a)(6)(A), provisions 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.

Under the Act, the Committee and its treasurer have an opportunity to demonstrate that no action should be taken against them. Any factual or legal materials that are relevant should be submitted to the Commission for its consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your 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 its 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.

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MUR 3208
Ms. Massagee
page 2

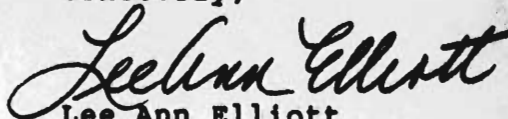
Requests for extensions of time will not be routinely granted. Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

If the Committee and its treasurer 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 investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Jim Brown, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



Lee Ann Elliott
Chairman

Enclosures

Factual and Legal Analysis
Procedures
Designation of Counsel Form

92040902023

**FEDERAL ELECTION COMMISSION
FACTUAL AND LEGAL ANALYSIS**

RESPONDENTS: Senate Committee for Bo Thomas
and its treasurer

MUR: 3208

The Federal Election Campaign Act of 1971, as amended (the "Act"), requires a federal candidate's principal campaign committee to notify either the Clerk of the House, Secretary of the Senate or the Commission (and the appropriate Secretary of State), in writing, of each contribution totaling \$1,000 or more received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.

2 U.S.C. § 434(a)(6)(A). The Act further requires this notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate, identification of the contributor, the date of receipt and the amount of the contribution. Id. According to the Act a contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. See 2 U.S.C. § 431(8)(A). Timely disclosure of such contributions, pursuant to 2 U.S.C. § 434(a)(6)(A), is in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

The Act requires every political committee to have a treasurer. See 2 U.S.C. § 432(a). The name and address of that treasurer are revealed on each committee's statement of organization, and the Act requires that any change of information contained in that statement shall be updated "no

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later than 10 days after the date of the change."

2 U.S.C. § 433.

Royce P. Thomas (Bo Thomas) was a Democratic candidate for the U.S. Senate in North Carolina's May 8, 1990 Primary Election. According to the Statement of Organization filed with the Commission on August 31, 1989, the Senate Committee for Bo Thomas (the "Committee") is the authorized principal campaign committee of Bo Thomas and Sara L. Massagee is that committee's treasurer.

Pursuant to 2 U.S.C. § 434(a)(6)(A), the Committee was required to notify the Commission, in writing, of all contributions of \$1,000 or more received from April 19, 1990 to May 5, 1990. On April 2, 1990, the committee was reminded by the Commission that the receipt of contributions of \$1,000 or more, received during the period of April 19, 1990 through May 5, 1990 must be reported to the appropriate federal and state offices within 48 hours of the committee's receipt.

The Committee's 1990 July Quarterly Report disclosed loans totaling \$347,600 during April and May of 1990, which indicated that at least one (1) 48-Hour Notice had failed to be filed. A subsequent response to a Commission Request for Additional Information ("RFAI") showed that the Committee received the following five (5) loans from Royce P. Thomas totaling \$345,000

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during the aforementioned time period that required 48 Hour Notices:

<u>Date</u>	<u>Amount</u>
4/19/90	\$165,000
4/23/90	\$5,000
4/27/90	\$165,000
5/03/90	\$3,500
5/04/90	\$6,500

9 2 0 4 0 9 0 2 0 2 6

The Committee asserted in its response to the RFAI that there were only two (2) contributions that required a 48-Hour Notice. The Commission was not aware that any of the above loans required 48 Hour Notice filings until October 9, 1990, when the Committee filed an Amended July Quarterly Report containing the omitted Schedule A which itemized the loans.

Under 2 U.S.C. § 433(c) the committee is required to report any change in information previously submitted in a statement of organization within 10 days after the date of the change. According to correspondence between the Reports Analysis Division ("RAD") and the Committee, there is an indication that Sara Massagee may no longer be the treasurer of the Senate Committee for Bo Thomas, as reflected on the statement of organization. The Commission has not been notified of any change of treasurer in accordance with 2 U.S.C. § 433(c).

As a result of the facts discussed above, there is reason to believe that the Senate Committee for Bo Thomas and its

treasurer, violated 2 U.S.C. §§ 433(c) & 434(a)(6)(A).

92040902027

Bo Thomas
U.S. Senate

P.O. Drawer 280, Hendersonville, NC 28739

January 8, 1991

OGC 9761

Federal Election Commission
Washington, DC

Attention: Mr. Jim Brown, Attorney

FAX 202-376-5280

Re: MUR-3208
Senate Committee for Bo Thomas

Boyd B. Massages, Jr., 240 Third Avenue West, Hendersonville, North
Carolina 28739, Telephone 704-692-2595, is authorized to act as our
representative, and to communicate with your office and receive any
information, which your office has relative to the candidate or the committee.

COMMITTEE FOR BO THOMAS

R. P. (Bo) Thomas
R. P. (Bo) Thomas
Candidate

Margaret S. Thomas
Margaret S. Thomas
Assistant Treasurer

Office Telephone 704-692-3285 or
704-692-2024

Home Telephone 704-692-1051

Home Address:

832 Fourth Avenue West
Hendersonville, NC 28739

91 JAN -9 AM 9:28

91 JAN -8 PM 5:06

S. J. Borden

92040902028

PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON

LAWYERS

240 THIRD AVENUE WEST

HENDERSONVILLE, NORTH CAROLINA 28730

January 10, 1991

L B PRINCE (1898-1982)
KENNETH YOUNGBLOOD
BOYD B MASSAGEE JR
FRANK B JACKSON
B B MASSAGEE III
SHARON B ELLIS
SAMUEL H FRITSCHNER
J. MICHAEL EDNEY

OF COUNSEL
J. W. JACKSON

TELEPHONE
704/892-2585

FAX LINE
704/893-0177

Federal Election Commission
999 E Street, NW
Washington, DC 20463
Attention: Mr. Jim Brown

Federal Election Commission
999 E Street, NW
Washington, DC 20463
Attention: Ms. Lee Ann Elliott, Chairman

RE: MUR 3208
Senate Committee for Bo Thomas and its Treasurer

Dear Ms. Elliott and Mr. Brown:

I enclose to you a letter from Margaret S. Thomas in the captioned matter for your consideration.

Yours very truly,

PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON

Boyd B. Massagee, Jr.

BBM,Jr/lew
Enclosure

92040902029

91 JAN 17 PM 3:42

January 10, 1991

Federal Election Commission
999 E Street, NW
Washington, DC 20463
Attention: Mr. Jim Brown

Federal Election Commission
999 E Street, NW
Washington, DC 20463
Attention: Ms. Lee Ann Elliott, Chairman

RE: MUR 3208
Senate Committee for Bo Thomas and its Treasurer

Dear Ms. Elliott and Mr. Brown:

This letter is written pursuant to the January 2, 1991 letter addressed to Sara L. Massagee, Treasurer of the Senate Committee for Bo Thomas, from Ms. Elliott.

The Committee requests pre-probable cause conciliation.

The following matters are pointed out to you:

1. A publication entitled "Campaign Guide For Congressional Candidates And Committees", dated July 1988, and purporting to be from the Federal Election Commission, was delivered to this Committee. While the Federal Election Campaign Act and the regulations were not available to the Committee, the guide was available, and the Committee thought that the guide was written to help the candidate comply with the law, and did not anticipate that it would be necessary to hire lawyers to read the law and the regulations to see if the law was different from that indicated in the Guide.

2. Pat Sheppard was available and quite helpful upon each inquiry, and I talked with her frequently trying to understand the requirements and trying to comply with the requirements.

3. Pages 3 and 4 of the Factual and Legal Analysis ("FLA") seem to indicate that Sara Massagee is no longer treasurer of the Committee, that there has been a change of the treasurer, and that no notification of this has been made, in violation of the Act.

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
91 JAN 17 PM 4:20

92040902030

I have attached as Attachment "A" the Statement of Organization ("SOO") dated August 21, 1989 and filed with the Commission. This Form 1 has certain portions highlighted on the instruction page. This also contains the acknowledgement of receipt of this by the Commission on 8/31/89. On the second page, the instructions for line 8 indicate that the treasurer's name and address must be entered on line 8. It also recites that "Every political committee must have a treasurer and may designate an assistant treasurer who shall assume the duties and responsibilities of the treasurer, in the event the treasurer is unavailable. The Commission recommends that each political committee designate an assistant treasurer...". On Line 8 of this SOO, Margaret S. Thomas, with her address, is designated as assistant treasurer. Nothing has been done to eliminate Sara L. Massagee as treasurer. Nothing has been done to eliminate Margaret S. Thomas as assistant treasurer.

Page 4 of the Guide, under paragraph 3, and concerning "Treasurer and Assistant Treasurer" states "It is advisable to designate an assistant treasurer as well... if, for some reason, the treasurer is unable to exercise his or her duties..., only someone officially designated as the assistant treasurer on the registration statement may assume the treasurer's duties. ...The treasurer or assistant treasurer is responsible for: filing complete and accurate reports... signing all reports..."

Attachment "B" is a letter dated December 1st from me to the Secretary of the Senate appointing an additional assistant treasurer, who was Carolyn H. Shaw. This may have been done on the wrong form, and Carolyn H. Shaw's name did not appear and may not be pertinent to the subject matter; however, it does indicate that I have attempted to comply with the requirements of the Act as set out in the Guide.

If the Act, or its regulations, do not permit an assistant treasurer, contrary to the instructions on Form 1, then I have violated the Act; however, I have certainly not violated the Guide nor the instructions on FEC Form 1.

4.

Due to the condition of Sara L. Massagee, a request is made that Sara L. Massagee no longer be the treasurer and that Margaret S. Thomas be changed from assistant treasurer to treasurer and the Committee makes that change, to the extent that the federal law permits this to be made in this form.

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5. Under the FLA, it is indicated that Last-Minute Contributions of \$1,000.00 or more received between 2 and 20 days before an election must be reported in writing. This is set out in page 24 of the Guide under paragraph 3 entitled "Last-Minute Contributions". I attempted to comply with this by my letter of May 4, 1990, a copy of which is attached as Attachment "D" concerning the only two contributions that I thought were made within this time frame. I set this out simply to show that I was aware of it and tried to comply with it.

The Committees' problem concerning this is the definition of "Contribution", and what appears to us to be confusing provisions of the Guide. Relative to this, your attention is drawn to page 11 of the portion of the Guide attached hereto as Attachment "E", particularly the paragraph entitled "Reporting Contributions From The Candidate". This paragraph provides "Contributions from the candidate must be reported by the campaign as follows:

.Personal funds donated to the campaign are reported as contributions from the candidate;

...

.Personal funds loaned to the campaign are reported as loans from the candidate from the outset. ...funds reported as contributions from the candidate may not later be converted into loans."

(underlining mine)

Ms. Sheppard informed me in her letter of September 25th that a Schedule A and a Schedule C was required for a loan. The Committee complied with this immediately.

However, reading the Guide it seems to clearly indicate in what I quoted just above that "Donations by the candidate are reported as contributions and monies loaned are reported as loans." If "funds reported as contributions from the candidate may not later be converted into loans....", it appears to necessarily follow that a loan is not automatically a contribution to begin with. If that were not the case, and if it was a contribution to begin with, then it could never be a loan in that it could not be converted.

6. The candidate and I have spent much time and effort trying to comply with the requirements of the Act. I have sought and followed religiously the kind help of Ms. Sheppard. I have read, underlined and studied the Guide in a Biblical fashion. If the law, consisting of the Code and the regulations, provide that these loans made by the candidates should be reported within 48 hours, then the law appears to me to be clearly contrary to both the meat and the implication of the Guide, in that the Last-Minute Contributions involves "contributions" and says nothing about loans. The Committee has studied and reviewed this matter exhaustively, and sincerely feels that if our actions constitute a violation, the violation resulted from our effort to comply with

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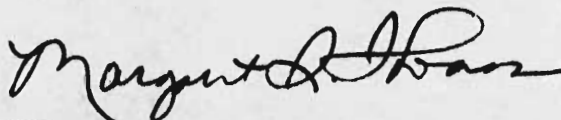
Federal Election Commission
January 10, 1991
Page Four

the terms of the Guide. I would not be candid if I did not add that in view of the confusing language of the Guide, and our intense effort to follow it, any serious punishment of the treasurer or the Committee would seem unfair to us.

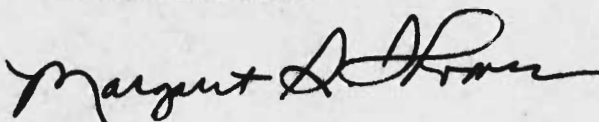
Thank you for taking time to read this.

Yours truly,

SENATE COMMITTEE FOR BO THOMAS

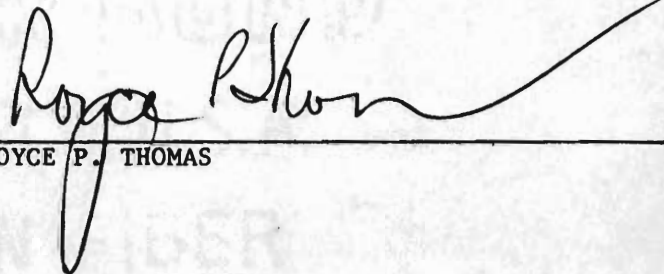


Margaret S. Thomas
Assistant Treasurer



Margaret S. Thomas
Treasurer

I have reviewed the above letter and I confirm, ratify and approve the contents of this letter.



ROYCE P. THOMAS

92040902033

STATEMENT OF ORGANIZATION

(See reverse side for instructions)

ATTACHMENT "A"

1. (a) NAME OF COMMITTEE IN FULL Senate Committee for Bo Thomas	☐ (Check if name is changed)	2. DATE August 21, 1989
(b) Number and Street Address P. O. Drawer 220	☐ (Check if address is changed)	3. FEC IDENTIFICATION NUMBER
(c) City, State and ZIP Code Hendersonville, NC 28793		4. IS THIS STATEMENT AN AMENDMENT? ☐ YES ☒ NO

5. TYPE OF COMMITTEE (Check one)

- ☒ (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.)
- | | | | |
|---|--|--------------------------------------|--------------------------------|
| Name of Candidate
R. P. (Bo) Thomas | Candidate Party Affiliation
Democratic | Office Sought
U. S. Senate | State/District
N. C. |
|---|--|--------------------------------------|--------------------------------|
- ☐ (c) This committee supports/opposes only one candidate _____ and is NOT an authorized committee.
(name of candidate)
- ☐ (d) This committee is a _____ committee of the _____ Party.
(National, State or subordinate) (Democratic, Republican, etc.)
- ☐ (e) This committee is a separate segregated fund.
- ☐ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

6. Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship

Type of Connected Organization

☐ Corporation ☐ Corporation w/o Capital Stock ☐ Labor Organization ☐ Membership Organization ☐ Trade Association ☐ Cooperative

7. Custodian of Records: Identify by name, address (phone number -- optional) and position of the person in possession of committee books and records.

Full Name	Mailing Address	Title or Position
Margaret S. Thomas	832 - 4th Avenue West Hendersonville, NC 28739	Ass't. Treasurer

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., assistant treasurer).

Full Name	Mailing Address	Title or Position
Sara L. Massagee	816 - 4th Avenue West Hendersonville, NC 28739	Treasurer
Margaret S. Thomas	832 - 4th Ave. W., Hendersonville, NC 28739	Ass't. Treas.

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
First Union National Bank of North Carolina	Hendersonville, North Carolina 28739

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

TYPE OR PRINT NAME OF TREASURER Sara L. Massagee	SIGNATURE OF TREASURER <i>Sara L. Massagee</i>	DATE 8/21/89
--	---	------------------------

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g. ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 10 DAYS.

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For further information contact:
Federal Election Commission
Toll-free 800-424-9530
Local 202-376-3120

FEC FORM 1
(revised 4/87)

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INSTRUCTIONS FOR PREPARING FEC FORM 1

LINE 1 Print or type full name and mailing address of the committee. The name of a principal campaign committee or other authorized committee must include the name of the candidate who authorized the committee. A political committee which is not an authorized committee can not include the name of any candidate in its name, except that a delegate committee must include the word "delegate(s)" in its name and may also include the name of the presidential candidate which it supports. A political committee established solely to draft an individual or to encourage an individual to become a candidate may include the name of the individual in the name of the committee, provided the committee's name clearly indicates that it is a draft committee. The name of a separate segregated fund must include the full name of its connected organization. Any abbreviation or acronym used by the fund must also be reported.

LINE 2 State the date the group or organization became a political committee. If this filing is an amendment, note the date of the change in information.

LINE 3 Only committees which have previously filed a Statement of Organization should fill in this block with the number which was originally assigned to the committee. All new committees will be assigned identification numbers when the completed statement has been received.

LINE 4 All political committees registering for the first time check "NO". Committees which have previously filed FEC FORM 1 and are now submitting changes or corrections check "YES". If "YES" is checked, complete Lines 1 through 4. With respect to Lines 5-9 include only the change(s) in information previously submitted. Committees are reminded that any change or correction in the information previously filed in the Statement of Organization shall be reported no later than 10 days following the date of the change or correction.

LINE 5 Check and fill out ONE of the six sections as follows:

- All principal campaign committees check (a) and fill in the corresponding information for the candidate under (b).
- All other authorized committees check (b) and fill in the corresponding information for the candidate.
- A committee supporting/opposing a single Federal candidate which is not authorized by a candidate checks (c), and includes the candidate's name on the line provided. Delegate and draft committees must check (c), and provide the name of the candidate supported.
- All national, State and subordinate committees of a political party check (d) and fill in the corresponding information.
- All separate segregated funds check (e). A separate segregated fund is a political committee established, financed, maintained, or controlled by a corporation, labor organization, membership organization, cooperative or trade association.
- A committee supporting/opposing more than one Federal candidate and which is not a separate segregated fund or a political party committee checks box (f).

All joint fundraising representatives check (f). A committee established to act as a joint fundraising representative is a political committee selected or established by joint fundraising participants as the committee responsible for keeping joint fundraising records, allocating proceeds and expenses among participants and reporting the overall financial activity of the fundraiser.

LINE 6 Political committees must list all affiliated committees and connected organizations (defined below) as follows:

- Principal campaign committees list all other committees authorized by the same candidate. Under "Relationship," write "affiliated."
- Political committees authorized by the same candidate (other than the principal campaign committee) list the principal campaign committee authorized by the same candidate. Under "Relationship," write "affiliated."
- Political committees which have been established, financed, maintained, or controlled by the highest level parent organization (i.e., the corporation, labor organization, membership organization, cooperative or trade association) list:
 - The name of the parent organization. Under "Relationship," write "connected," AND
 - The name of any other political committee(s) established, financed, maintained, or controlled by the same parent organization or by a subsidiary, branch, or State, local, or other subordinate unit of the same parent organization. Under "Relationship," write "affiliated."
- Political committees which have been established, financed, maintained, or controlled by a subsidiary, branch, or State, local, or other subordinate unit of an organization list:
 - The name of the subsidiary, branch, or State, local or other subordinate unit and the name of the parent organization of which it is a part. Under "Relationship," write "connected," AND
 - The name of the highest level political committee sponsored by the parent organization. Under "Relationship," write "affiliated."
- State party committees list any subordinate committees (i.e., any county, district or local committee) under the control or direction of the

- State committee. Under "Relationship," write "affiliated." (See 11 C.F.R. 110.3(b).)
- Subordinate State party committees list the State party committee. Under "Relationship," write "affiliated." (See 11 C.F.R. 110.3(b).)
- Joint fundraising representatives list all the political committees participating in the joint fundraising effort. Under "Relationship," write "joint fundraising participant."
- Joint fundraising participants list the committee established to act as the joint fundraising representative. Under "Relationship," write "joint fundraising representative."

Separate segregated funds must check the most appropriate box for the type of "connected organization."

NOTE: The term "connected organization" means any organization which is not a political committee but which directly or indirectly establishes, administers, or financially supports a political committee. A connected organization may be a corporation (including a corporation without capital stock), a labor organization, a membership organization, a cooperative, or a trade association. The definition of "affiliated committee" is contained at 11 C.F.R. 100.5(g).

LINE 7 The name, address, and committee position or the title of custodian of the committee's books and records must be entered on Line 7. The telephone number is optional, but is helpful in expeditiously resolving potential filing problems. If the treasurer is the custodian of records, the term "treasurer" is sufficient for Line 7.

LINE 8 The name and address of the committee's treasurer must be entered on Line 8. The name and address of any designated agent (e.g., assistant treasurer) must also be included on Line 8. Every political committee must have a treasurer and may designate an assistant treasurer who shall assume the duties and responsibilities of the treasurer, in the event the treasurer is unavailable. The Commission recommends that each political committee designate an assistant treasurer because no contribution or expenditure may be accepted or made by or on behalf of a political committee at a time when there is a vacancy in the office of the treasurer. No expenditure may be made for or on behalf of a political committee without the authorization of its treasurer or another agent authorized orally or in writing by the treasurer.

LINE 9 The committee must provide the name and mailing address of any bank, repository, or depository where the committee holds funds. Each political committee must have a checking account or transaction account at one of its depositories. All receipts of a political committee must be deposited into a designated campaign depository. All disbursements must be made by check or similar drafts drawn on an account at a designated campaign depository, except for expenditures of \$100 or less made from a petty cash fund.

TREASURER'S RESPONSIBILITIES

The treasurer of the political committee must preserve a copy of the Statement of Organization and each amendment for a period of not less than 3 years after the date of filing. The treasurer of the political committee is personally responsible for the timely and complete filing of this Statement and for the accuracy of any information contained in it.

Submit additional information on separate continuation sheets appropriately labeled and attached to the Statement of Organization. Indicate in the appropriate section when information is continued on separate page(s).

WHERE TO FILE

The original Statement of Organization (FEC FORM 1) and all amendments must be filed with the appropriate office as follows:

- The principal campaign committee of a candidate for the House of Representatives and political committees which support or oppose only candidates for the House file with the Clerk of the House of Representatives, Office of Records and Registration, 1036 Longworth Office Building, Washington, DC 20515-6612.
 - The principal campaign committee of a candidate for the Senate and political committees which support or oppose only candidates for the Senate file with Secretary of the Senate, Office of Public Records, 232 Hart Senate Office Building, Washington, DC 20510-7116.
 - An authorized committee which is not the principal campaign committee of a candidate files with the principal campaign committee which must forward a copy to the appropriate office listed herein.
 - All other committees, including the principal campaign committee of a candidate for the office of President or Vice President, file with the Federal Election Commission, 999 E Street, N.W., Washington, DC 20463.
- Authorized committees of candidates for the House of Representatives and for the Senate must also file a copy of this Statement with the Secretary of State (or the appropriate State officer) of the State in which nomination or election is sought. Authorized committees of candidates for the office of President or Vice President must also file a copy of this statement in each State in which the committee makes expenditures. Political committees other than authorized committees must also file a copy of the Statement in the State in which the committee has its headquarters.

The Treasurer must sign the Statement of Organization.

92040902035



FEDERAL ELECTION COMMISSION

999 E Street, N.W.
Washington, D.C. 20463

**ACKNOWLEDGEMENT OF RECEIPT
OF
Statement of Organization**

Filed pursuant to the Federal Election Campaign Act of 1971, as amended

┌ SARA L MASSAGEE, Treasurer
SENATE COMMITTEE FOR BO THOMAS
P O DRAWER 220
HENDERSONVILLE NC 28793

┐ DATE: 08/31/1989

**NOTICE REGARDING FILINGS
UNDER THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED**

Your assigned FEC IDENTIFICATION NUMBER is C00238287

In the future this number should be entered on all subsequent reports filed under the Act, as well as on all communications concerning such reports and statements. This acknowledgement will be the only receipt provided directly by the Commission, for documents filed. The Commission recommends that all future filings be mailed Certified or Registered, Return Receipt Requested, in order to insure timeliness of your filings and to provide additional receipts for your records.

FEDERAL ELECTION COMMISSION

FEC FORM 20 (9/87)
(Supersedes FEC Forms 13, 14, and 19)

92040902036

**Bo
Thomas**
U.S. Senate

ATTACHMENT "B"
P.O. Drawer 220, Hendersonville, NC 28793

December 1, 1989

Secretary of the Senate
Office of Public Records
232 Hart Senate Office Building
Washington, DC 10510-7116

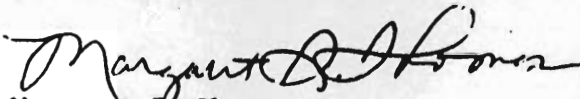
Dear Sir:

The Senate Committee for Bo Thomas: FEC Identification Number is
C00238287.

Please consider this letter an amendment to appoint an additional
assistant treasurer and an additional bank depository. The name
of the new assistant treasurer is Carolyn H. Shaw, whose address
is 3421 Clark Avenue, Raleigh, NC 27607. The new bank depository
is First Union National Bank of North Carolina which is located
in Raleigh, North Carolina.

Yours truly,

SENATE COMMITTEE FOR BO THOMAS


Margaret S. Thomas
Assistant Treasurer

mst

cc: Campaign Reporting Office
State Board of Elections
Post Office Box 1934
Raleigh, NC 27602

92040902037

**Bo
Thomas**
U.S. Senate

P.O. Drawer 220, Hendersonville, NC 28793

May 4, 1990

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

Dear Sir or Madam:

Please consider this letter notification that two "Last-Minute Contributions" in the amount of \$1,000.00 each were received by the undersigned committee on May 3, 1990. Our primary will be held on May 8, 1990.

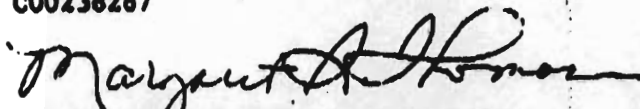
The contributions are as follows:

Dale Greene	Wholesale Fresh Produce
Route 5, Box 417	Self-employed
Boone, NC 28607	\$1,000.00 May 3, 1990
Betty Greene	Wholesale Fresh Produce
Route 5, Box 417	Self-employed
Boone, NC 28607	\$1,000.00 May 3, 1990

We trust this is the desired information.

Yours truly,

SENATE COMMITTEE FOR BO THOMAS
C00238287



Margaret S. Thomas
Assistant Treasurer

mt

cc: Campaign Reporting Office
State Board of Elections
Post Office Box 1934
Raleigh, NC 27602

92040902038

July

Federal Election Commission

1988

CAMPAIGN GUIDE



FOR CONGRESSIONAL
CANDIDATES AND
COMMITTEES

92040902039

Other Authorized Committees

In addition to the principal campaign committee, the candidate may designate other *authorized committees* to receive contributions or make expenditures on his or her behalf. The following steps must be taken:

Action by Candidate

The candidate designates the authorized committee by filing a statement (either FEC Form 2 or a letter) with the principal campaign committee. 101.1(b) and 102.13(a)(1).

Action by Authorized Committee

Within 10 days after being designated by the candidate, the authorized committee must file a registration statement (FEC Form 1) with the candidate's principal campaign committee. 102.1(b) and 102.13(a)(1).

Action by Principal Campaign Committee

The principal campaign committee, in turn, files the documents with the appropriate Federal and State offices, as explained above.

3. Statement of Organization

When registering, a committee must disclose basic information, listed below, which is required on the Statement of Organization (FEC Form 1). The registration statement also serves as the official designation of the treasurer and custodian of records, the only two committee officers required under the law. 102.2.

Name and Address of Committee

The name of a principal campaign committee and any other authorized committee must include the name of the candidate. 102.2(a)(1)(i) and 102.14(a).

Identification Number

The Federal Election Commission assigns each committee an identification number after the committee has filed a registration statement. Thereafter, the committee must enter the number on all statements and reports. 102.2(c).

Type of Committee

The committee must identify itself as either a principal campaign committee or other authorized committee. It must also disclose the following information on the candidate who authorized it: name, party affiliation, office sought, and State and Congressional district (if applicable) in which the candidate seeks election. 102.2(a)(1)(v).

Affiliated Committees

A principal campaign committee lists the name and address of all other committees authorized by the candidate as *affiliated committees*. Other authorized committees list only the principal campaign committee as an affiliated committee. 102.2(b)(1)(i).

Custodian of Records

The name and address of the individual who has actual possession of the committee's books and records must be listed on the registration statement. The treasurer or assistant treasurer (see below) may serve as the custodian of records. 102.2(a)(1)(iii).

Treasurer and Assistant Treasurer

The Statement of Organization requires the name and address of the treasurer. 102.2(a)(1)(iv). It is advisable to designate an assistant treasurer as well. A committee must have a treasurer before it conducts any financial transactions. If, for some reason, the treasurer is unable to exercise his or her duties (for example, he or she is out of town or has resigned and no successor has been appointed), only someone officially designated as the assistant treasurer on the registration statement may assume the treasurer's duties. 102.7(a) and (b).

The treasurer or assistant treasurer is responsible for:

- Filing complete and accurate reports and statements on time, including the committee's registration form. 102.2(a)(1), 104.4(a) and 104.14(d).
- Signing all reports and statements. 102.2(a) and 104.14(a).
- Depositing receipts in the campaign depository (see below) within 10 days. 103.3(a).
- Authorizing expenditures or appointing an agent (either orally or in writing) to authorize expenditures. 102.7(c).
- Monitoring contributions to ensure compliance with the law's limits and prohibitions. 103.3(b).
- Keeping the required records of committee receipts and disbursements for three years. 102.9 and 104.14(b).

Campaign Depository

A committee must list the name and address of the campaign depositories it maintains for depositing receipts and making disbursements. (One depository is required, although others may be designated as well.) Note that all committee disbursements must be made by check or similar drafts drawn on a designated campaign depository. (Cash disbursements of \$100 or less per transaction may be made from a petty cash fund. 102.11.) The following institutions may be designated: State banks, national banks and depositories insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation and the National Credit Union Administration. 103.1, 103.2 and 103.3(a).

New Treasurer and Other Changes

Note that a committee must report any change or correction to information contained in its registration statement within 10 days after the change. A committee may have to file an amendment, for example, to report a new treasurer, a new assistant treasurer, a change of address or a new campaign depository. The committee must indicate on FEC Form 1 or in a letter that the statement is an amendment to its registration. The form or letter should include only the committee's name, address, identification number and the change or correction (such as a change of treasurer, address or depository). The amendment must be signed by the treasurer or assistant treasurer. 102.2(a)(2).

CHAPTER 2

Understanding Contributions

1. What is a Contribution

A contribution is anything of value given to influence a *Federal election*.¹

It is important to understand which receipts are considered contributions because:

- Contributions count toward the threshold that determines whether an individual has qualified as a *candidate* under the Federal Election Campaign Act. 100.3(a).
- They are subject to the Act's prohibitions.
- They are subject to the Act's *contribution limits*.

Like all receipts, contributions are also subject to the Act's recordkeeping and reporting requirements.

The section below describes different types of contributions. (Contribution limits and prohibitions are discussed in the chapters that follow.)

2. Types of Contributions

Gifts of Money

A contribution of money may be made by check or cash (currency), although cash contributions are subject to a special \$100 limit. There is also a \$50 limit on anonymous cash contributions. 100.7(a)(1)(ii) and 110.4(c). See page 6 for limits on contributions of currency.

Earmarked Contributions and Bundling

An earmarked contribution is one which the contributor directs (either orally or in writing) to a candidate through an intermediary or conduit. 110.6(b). Special rules govern this type of transaction; see Appendix C.

Note that when an intermediary or conduit collects and transmits contributions to the campaign (sometimes referred to as "bundling"), the special rules in Appendix C apply.

In-Kind Contributions

Definition

The donation of goods offered free or at less than the usual charge is called an in-kind contribution. Similarly, when a person pays for services on the committee's behalf, the payment is considered an in-kind contribution. An expenditure made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate's campaign is also considered an in-kind contribution to the candidate. 2 U.S.C. §441a(a)(7)(B)(i).

Limits

The value of an in-kind contribution—the usual and normal charge—counts against the same contribution limit as a gift of money. 100.7(a)(1)(iii) and (a)(3).

Value

- **Goods** (such as facilities, equipment, supplies and mailing lists) are valued at the price the item or facility would cost if purchased or rented at the time the contribution is made. For example, if someone donates a personal computer to the campaign, the contribution equals the ordinary market price of the computer at the time of the contribution.
- **Services** (such as advertising, printing or consultant services) are valued at the prevailing commercial rate at the time the services are rendered.

Exceptions

Under limited exemptions in the law, persons may provide certain goods and services to a committee without making contributions. For example, when services are volunteered—not paid for by anyone—the activity is not considered a contribution. 100.7(b)(3). See page 13.

Loans

A loan, including a loan to the campaign from a member of the candidate's family, is considered a contribution to the extent of the outstanding balance of the loan. (Bank loans, however, are not considered contributions if made in the ordinary course of business. 100.7(b)(11). See page 13.) An unpaid loan, when added to other contributions from the same donor, may not exceed the contribution limit. Repayments made on the loan reduce the amount of the contribution. Once repaid in full, a loan no longer counts against the donor's contribution limit. However, a loan

exceeding the limit is unlawful even if it is repaid in full. Besides being reported as a contribution, a loan must be continuously reported as a debt until fully repaid. 100.7(a)(1)(i) and 104.3(d).

Endorsements and Guarantees of Loans

An endorsement or guarantee of a loan counts as a contribution to the extent of the outstanding balance of the loan.² Repayments made on the loan reduce the amount of the contribution. Once the loan is repaid in full, the endorsement or guarantee no longer counts against the endorser's or guarantor's contribution limit. If a written loan agreement does not stipulate the portion for which each endorser or guarantor is liable, then individual contributions are calculated by dividing the amount of the loan by the number of persons who have endorsed or guaranteed it. 100.7(a)(1)(i)(C).



¹ *Italicized terms are defined in Appendix I.*

² An exception to this rule is provided for spouses of candidates. See page 10.

What Are Not Considered Personal Funds

Personal Gifts and Loans

If any person, including a relative or friend of the candidate, gives or loans the candidate money in connection with his or her campaign, the funds are not considered personal funds of the candidate.¹⁵ Instead, the gift or loan is considered a contribution from the donor to the campaign, subject to the per-election limit and reportable by the campaign. This is true even if the candidate uses the funds for personal living expenses while campaigning. See, for example, AOs 1985-33 and 1982-84; see also AO 1987-1.

Unearned Income and Fringe Benefits

A candidate's salary or wages are considered his or her personal funds as long as there is a bona fide employment relationship between the candidate and the employer that is independent of the campaign. However, compensation paid to a

candidate in excess of actual hours worked is generally considered a contribution from the employer. If the employer is a corporation or other *prohibited source*, the excess payment would result in a prohibited contribution. 100.7(a)(3) and 110.10(b)(2). See also, for example, AOs 1980-115 and 1979-74.

Note that when a candidate is on leave without pay, the continued payment of fringe benefits (such as health insurance and retirement) may also result in contributions from the employer to the campaign. 114.12(c).

Reporting Contributions from the Candidate

Contributions from the candidate must be reported by the campaign as follows:

- Personal funds donated to the campaign are reported as contributions from the candidate;
- Campaign expenditures from personal funds are reported as in-kind contributions from the candidate;
- Personal funds loaned to the campaign are reported as loans from the candidate from the outset. This is necessary if the candidate wishes to be repaid; funds reported as contributions from the candidate may not later be converted into loans. AOs 1987-1, 1986-45 and 1977-58.

Note that if a candidate obtains a bank loan for campaign-related purposes, the campaign reports the bank as the source of the loan, rather than the candidate, although the candidate is listed as the guarantor or endorser. 104.3(a)(3)(vii)(B). For further details on reporting, see the chapter "Completing FEC Reports."

CHAPTER 4

Prohibited Contributions

Candidate campaigns are prohibited from accepting *contributions*¹ from certain types of organizations and individuals. 110.9(a) and 114.2(c). These prohibited sources are listed below.²

If a committee is uncertain whether a contribution comes from a prohibited source, it should follow the procedures described under "Questionable Contributions," below.

1. Prohibited Sources

Corporations, Labor Organizations, National Banks

Campaigns may not accept contributions made from the general treasury funds of corporations, labor organizations and national banks.³ 114.2(a) and (b). This prohibition applies to any incorporated organization, profit or nonprofit, including a non-stock corporation, an incorporated membership organization and an incorporated cooperative.⁴

For example, the owner of an incorporated "mom and pop" grocery store is not permitted to use a business account to make contributions. Instead, the owner would have to use a personal account. As another example, a corporate employee may make contributions through a personal account or a *nonrepayable corporate drawing account*, which allows the individual to draw personal funds against salary, profits or other compensation.

¹ *Italicized terms are defined in Appendix I.*

² These organizations and persons are, in turn, prohibited from making contributions in connection with, or for the purpose of influencing, Federal elections.

³ National banks and Federally chartered corporations may not make contributions in connection with any election—Federal, State or local. 114.2(a).

⁴ However, a political committee that has incorporated for liability purposes only is not considered a prohibited source. 114.12(a).

¹⁵ Bank loans obtained by a candidate are not considered contributions from the bank if certain rules are followed (see page 13). However, they must be reported, as discussed below. 100.7(a)(11).

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and if such services are not attributable to activities which directly further the election of any designated candidate to Federal office; or

(iii) rendered to or on behalf of a candidate or political committee if the person paying such services is the regular employer of the individual rendering such services, and if such services are solely for the purpose of ensuring compliance with this Act or chapter 95, chapter 96 of the Internal Revenue Code of 1954 [26 USCS §§ 9001 et seq. or 9031 et seq.] but amounts paid or incurred by the regular employer for such legal or accounting services shall be reported in accordance with section 304(b) [2 USCS § 434(b)] by the committee receiving such services;

(viii) the payment by a State or local committee of a political party of the costs of campaign materials (such as pins, bumper stickers, handbills, brochures, posters, party tabards, and signs) used by such committee in connection with volunteer activities on behalf of nominees such party: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of particular candidate or particular candidates;

(ix) the payment by a State or local committee of a political party of the costs of voter registration and get-out-the-vote activities conducted by such committee on behalf of nominees of such party for President and Vice President: *Provided, That—*

(1) such payments are not for the costs of campaign materials or activities used in connection with any broadcasting, newspaper, magazine, billboard, direct mail, or similar type of general public communication or political advertising;

(2) such payments are made from contributions subject to the limitations and prohibitions of this Act; and

(3) such payments are not made from contributions designated to be spent on behalf of particular candidate or candidates; and

(x) payments received by a political party committee as a condition of ballot access which are transferred to another political party committee or the appropriate State official.

(10) The term "Commission" means the Federal Election Commission.

(11) The term "person" includes an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons, but such term does not include the Federal Government or any authority of the Federal Government.

(12) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.

(13) The term "identification" means—

(A) in the case of any individual, the name, the mailing address, and the occupation of such individual, as well as the name of his or her employer; and

(B) in the case of any other person, the full name and address of such person.

(14) The term "national committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the national level, as determined by the Commission.

(15) The term "State committee" means the organization which, by virtue of the bylaws of a political party, is responsible for the day-to-day operation of such political party at the State level, as determined by the Commission.

(16) The term "political party" means an association, committee, or organization which nominates a candidate for election to any Federal office whose name appears on the election ballot as the candidate of such association, committee or organization.

(17) The term "independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate.

(18) The term "clearly identified" means that—

(A) the name of the candidate involved appears;

(B) a photograph or drawing of the candidate appears; or

(C) the identity of the candidate is apparent by unambiguous reference.

(19) The term "Act" means the Federal Election Campaign Act of 1971 as amended [2 USCS § 431 note].

(As amended Jan. 8, 1980, P.L. 96-187, Title I, § 101, 93 Stat. 1339.)

HISTORY; ANCILLARY LAWS AND DIRECTIVES

References in text:

"This Act" referred to in this section is the "Federal Election Campaign Act of 1971," which appears generally at 2 USCS §§ 431 et seq. For its full classification consult the USCS Table volumes.

Amendments

1980, Act Jan. 8, 1980, substituted this section for former one which read: "When used in this title and this IV of this Act—

"(a) 'election' means (1) a general, special, primary, or runoff election, (2) a convention or caucus of a political party which has authority to nominate a candidate, (3) a primary election held for the selection of delegates to a national nominating convention of a political party, and (4) a primary election held for the expression of a preference for the nomination of persons for election to the office of President;

"(b) 'candidate' means an individual who seeks nomination for election, or election, to Federal office, whether or not such individual is elected, and, for purposes of this paragraph, an individual shall be deemed to seek nomination for election, or election, if he has (1) taken the action necessary under the law of a State to qualify himself for nomination for elections, or elections, to Federal office, or (2) received contributions or made expenditures, or has given his consent for any other person to receive contributions or make expenditures, with a view to bringing about his nomination for election, or election, to such office;

"(c) 'Federal office' means the office of President or Vice President of the United States; or of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress of the United States;

"(d) 'political committee' means any committee, club, association, or other group of persons which receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$1,000;

"(e) 'contribution'—

"(1) means a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of—

"(A) influencing the nomination for election, or election, of any person to Federal office or for the purpose of influencing the results of a primary held for the selection of delegates to a national nominating convention of a political party, or

"(B) influencing the result of an election held for the expression of a preference for the nomination of persons for election to the office of President of the United States;

"(2) means a written contract, promise, or agreement, whether or not legally enforceable, to make a contribution for such purposes;

"(3) means funds received by a political committee which are transferred to such committee from another political committee or other source;

"(4) means the payment, by any person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for any such purpose, except that this paragraph shall not apply in the case of legal or accounting services rendered to or on behalf of the national committee of a political party (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), other than services attributable to activities which directly further the election of a designated candidate or candidates to Federal office, nor shall this paragraph apply in the case of legal or accounting services rendered to or on behalf of a candidate or political committee solely for the purpose of ensuring compliance with the provisions of this Act or chapter 95 or chapter 96 of the Internal Revenue Code of 1954 (unless the person paying for such services is a person other than the regular employer of the individual rendering such services), but amounts paid or incurred for such legal or accounting services shall be reported in accordance with the requirements of section 304(b); but

"(5) does not include—

"(A) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee;

"(B) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for candidate-related activities;

"(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

"(D) any unremunerated payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate;

"(E) the payment by a State or local committee of a political party of the costs of preparation, display, or mailing or other distribution incurred by such committee with respect to a printed state card or sample ballot, or other printed listing, of 3 or more candidates for any public office for which an election is held in the State in which such committee is organized, except that this clause shall not apply in the case of costs incurred by such committee with respect to a display of any such listing made on broadcasting stations, or in newspapers, magazines or other similar types of general public political advertising;

"(F) any payment made or obligation incurred by a corporation or a labor organization which, under the provisions of section 321(b), would not constitute an expenditure by such corporation or labor organization;

"(G) a loan of money by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business, but such loans—

"(i) shall be reported in accordance with the requirements of section 304(b); and

"(ii) shall be considered a loan by each endorser or guarantor, in that proportion of the unpaid balance thereof that each endorser or guarantor bears to the total number of endorsers or guarantors; or

"(H) a gift, subscription, loan, advance, or deposit of money or anything of value to a national committee of a political party or a State committee of a political party which is specifically designated for the purpose of defraying any cost incurred with respect to the construction or purchase of any office facility which is not acquired for the purpose of influencing the election of any candidate in any particular election for Federal office, except that any such gift, subscription, loan, advance, or deposit of money or anything of value, and any such cost, shall be reported in accordance with section 304(b); or

"(I) any "excess" (within the meaning of section 328), to the extent that the cumulative value of "excess" by any person on behalf of any candidate under each of clauses (B), (C), and (D) does not exceed \$500 with respect to any election;

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BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of

Senate Committee for Bo Thomas
and Margaret S. Thomas, as
treasurer

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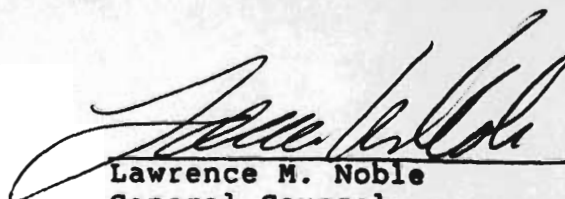
MUR 3208

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation into a violation of 2 U.S.C. § 433(c) by the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, based on the assessment of the information presently available.

Date

3/15/91


Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

March 19, 1991

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble
General Counsel *[Signature]*
SUBJECT: MUR 3208

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondent of the General Counsel's intent to recommend to the Commission a finding of no probable cause to believe were mailed on March 19, 1991. Following receipt of the respondent's reply to this notice, this Office will make a further report to the Commission.

Attachments

1. Brief
2. Letter to Respondents' counsel

Staff assigned: J. Albert Brown

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 19, 1991

Boyd B. Massagee, Jr.
Prince, Youngblood, Massagee & Jackson
240 Third Avenue West
Hendersonville, North Carolina 28739

RE: MUR 3208
Senate Committee for Bo Thomas
and Margaret S. Thomas, as
treasurer

Dear Mr. Massagee:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, the Federal Election Commission found reason to believe that the Senate Committee for Bo Thomas (the "Committee") and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 433(c), and instituted an investigation in 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 no probable cause to believe that a violation of 2 U.S.C. § 433(c) 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.

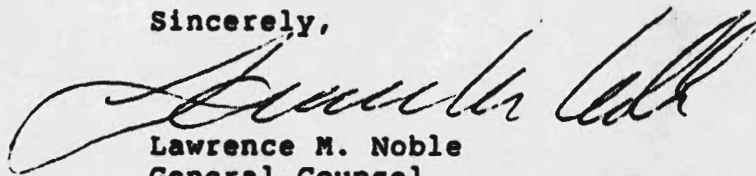
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Boyd B. Massagee, Jr.
MUR 3208
page 2

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 Jim Brown, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Senate Committee for Bo Thomas) MUR 3208
and Margaret S. Thomas, as)
treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

On December 24, 1990, the Federal Election Commission found reason to believe that the Senate Committee for Bo Thomas and its treasurer (collectively referred to as the "Committee") violated 2 U.S.C. § 433(c). On January 10, 1991, the Committee filed a response to notification of this Commission finding.

II. ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that each authorized campaign committee file a Statement of Organization identifying the name and address of the treasurer of the committee. See 2 U.S.C. § 433(b)(4). Section 433(c) of the Act requires any changes to the Statement of Organization be disclosed to the Commission within 10 days of the change. Commission regulations also provide that every political committee may designate an assistant treasurer on the committee's Statement of Organization to "assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office or in the event the treasurer is unavailable." See 11 C.F.R. § 102.7(a).

In response to the reason to believe finding that the Committee violated Section 433(c) of the Act, the Committee

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notes that its Statement of Organization filed on August 21, 1989, names Sara L. Massagee as the Committee's treasurer, and also indicates that Margaret S. Thomas would serve as the Committee's Assistant Treasurer. According to the Committee's response, the designation of an assistant treasurer was done as a result of advice contained in instructions for preparing FEC Form 1.

The Committee's response explains the confusion about the treasurer status of Sara L. Massagee. Documentation submitted by respondents shows that for an undisclosed period of time Ms. Massagee was incapable of functioning in her normal capacity as treasurer of the Committee

This illness resulted in hospitalization and subsequent out-patient care and has prevented her from carrying out her usual duties and work load. In order to avoid additional hardship upon Ms. Massagee, and given that the Committee's Statement of Organization already listed Margaret S. Thomas as Assistant Treasurer, the Committee carried on with Ms. Thomas serving as acting Treasurer.¹

Accordingly, the Office of the General Counsel recommends that the Commission find no probable cause to believe that the

1. For these reasons, the Committee's response to the Commission's findings requested that Ms. Massagee now be deleted as treasurer, and that henceforth Margaret S. Thomas be officially designated as treasurer.

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Senate Committee for Bo Thomas or Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 433(c).

III. GENERAL COUNSEL'S RECOMMENDATION

Find no probable cause to believe that the Senate Committee for Bo Thomas or Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 433(c).

3/15/91
Date

Lawrence M. Noble
General Counsel

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PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON

LAWYERS

240 THIRD AVENUE WEST

HENDERSONVILLE, NORTH CAROLINA 28739

March 22, 1991

OF COUNSEL
J W JACKSON

TELEPHONE
704/692-2595

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704/693-0177

L B PRINCE (1898-1982)
KENNETH YOUNGBLOOD
BOYD B MASSAGEE JR
FRANK B JACKSON
B B MASSAGEE III
SHARON B ELLIS
SAMUEL H FRITSCHNER
J MICHAEL EDNEY

Mrs. Marjorie Emmons
Secretary, Federal Election Commission
999 E Street NW - 9th Floor
Washington, DC 20463

RE: MUR 3208
Brief of Senate Committee for Bo Thomas
and Margaret S. Thomas, as Treasurer

Dear Mrs. Emmons:

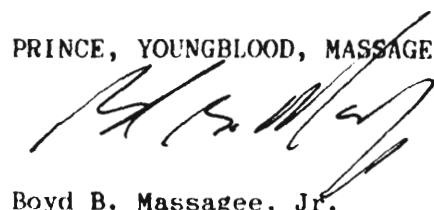
Under letter of March 19, 1991, Lawrence M. Noble as General Counsel wrote the undersigned and enclosed a copy of the General Counsel's Brief in the captioned matter.

The position of the Senate Committee for Bo Thomas and Margaret S. Thomas is that they both concur with the contents of General Counsel's Brief and request that the action recommended be taken by the Commission.

Nine additional copies of this are enclosed.

Yours very truly,

PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON



Boyd B. Massagee, Jr.

BBM,Jr/lew
Enclosures

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'APR 23 1991

EXECUTIVE SESSION

**Senate Committee for Bo Thomas
and Margaret S. Thomas, as
treasurer**

MUR 3208

GENERAL COUNSEL'S REPORT

SENSITIVE

On December 24, 1990, the Federal Election Commission found reason to believe that the Senate Committee for Bo Thomas and its treasurer (collectively referred to as the "Committee") violated 2 U.S.C. §§ 433(c) and 434(a)(6)(A).¹ In response to notification of these Commission findings, counsel for the Committee filed a reply and requested pre-probable cause conciliation. Attachment I. On March 19, 1991, respondents were mailed a brief notifying them of the General Counsel's intent to recommend to the Commission that it find no probable cause to believe that the Committee violated 2 U.S.C. § 433(c). On March 22, 1991, Counsel for the Committee filed a letter concurring with the General Counsel's recommendation.

Attachment II.

A. 2 U.S.C. § 433(c)

As noted in the General Counsel's Brief, incorporated

1. Given that the Committee has requested that Sara Massagee be deleted as treasurer, and that henceforth Margaret S. Thomas be officially designated as treasurer, Ms. Thomas is now named as a respondent. The original reason to believe findings were found relative to the Senate Committee for Bo Thomas and its treasurer, because it was unclear who was serving as the committee's treasurer at that juncture.

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herein by reference, the Committee has clarified the treasurer status of Sara L. Massagee. While Ms. Massagee was named as the Committee's treasurer in the Committee's Statement of Organization filed on August 21, 1989, Margaret S. Thomas was named as the Committee's Assistant Treasurer.

During the illness of Ms. Massagee, her duties were assumed by the Assistant Treasurer, Ms. Thomas, who has now been designated as the Committee's treasurer. Given these facts, the Office of the General Counsel recommends that the Commission find no probable cause to believe that the Senate Committee for Bo Thomas or Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 433(c).

B. 2 U.S.C. § 434(a)(6)(A)

In explaining the failure to notify the Commission of five (5) candidate loans, totaling \$345,000, which were received within the 48 hour notice period, the respondents point to confusion arising out of their reading of the Federal Election Commission Campaign Guide for Congressional Candidates and Committees ("the FEC Guide"). Respondents maintain that the FEC Guide section entitled "Reporting Contributions from the Candidate" indicates that candidate loans are not considered contributions. Specifically, respondents maintain that "[i]f funds reported as contributions from the candidate may not

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later be converted into loans. . . .', it appears to necessarily follow that a loan is not automatically a contribution to begin with." Attachment I at 4.

Respondents' reading of the FEC Guide is incorrect. The FEC Guide clearly states that "[a] contribution is anything of value given to influence a Federal election" and that "[a] loan, including a loan to the campaign from a member of the candidate's family, is considered a contribution" See Attachment I, pg. 15. Moreover, although the Commission has endeavored to make the provisions of the Act more clearly understandable via publication of the FEC Guide, the Act and the regulations remain the final authority. The law explicitly includes loans within the definition of the term contribution, 2 U.S.C. § 431(8)(A)(1), and the Act specifically requires the reporting of loans made by the candidate. 2 U.S.C. § 434(b)(2)(G).

It is the respondents' position that they tried to comply with the requirements outlined in the FEC Guide and advice given by RAD analysts. As proof of their good faith efforts, respondents point to the Committee's May 4, 1990 letter notifying the Commission of two contributions received during the forty-eight hour notification period. Attachment I at 12. Such action does not excuse the Committee's failure to file the other required 48-hour notices, nor does the Committee's misunderstanding of the law vitiate the violation that occurred.

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III. DISCUSSION OF CONCILIATION PROVISIONS AND CIVIL PENALTY

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IV. RECOMMENDATIONS

1. Find no probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 433(c).
2. Enter into conciliation with the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, prior to a finding of probable cause to believe.

3. Approve the appropriate letter and attached proposed conciliation agreement.

Lawrence M. Noble
General Counsel

Date 4/13/91

BY: 
Lois G. Lerner
Associate General Counsel

Attachments

- I. Respondent's January 10, 1991 reply
- II. Respondent's March 22, 1991 letter
- III. Proposed Conciliation Agreement

Staff Assigned: J. Albert Brown

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Senate Committee for Bo Thomas) MUR 3208
and Margaret S. Thomas, as)
treasurer.)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 23, 1991, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3208:

1. Find no probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 433(c).
2. Enter into conciliation with the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, prior to a finding of probable cause to believe.

(continued)

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3. Approve the appropriate letter and the proposed conciliation agreement as recommended in the General Counsel's report dated April 13, 1991.

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

Attest:

4-23-91
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

April 29, 1991

Boyd B. Massagee, Jr.
Prince, Youngblood, Massagee & Jackson
240 Third Avenue West
Hendersonville, North Carolina 28739

RE: MUR 3208
-Senate Committee for Bo Thomas and
Margaret S. Thomas, as treasurer

Dear Mr. Massagee:

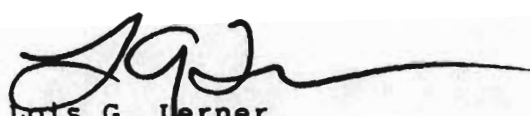
On December 24, 1990, the Federal Election Commission found reason to believe that the Senate Committee for Bo Thomas and its treasurer violated 2 U.S.C. §§ 433(c) and 434(a)(6)(A). On April 23, 1991, the Federal Election Commission found that there is no probable cause to believe that your clients violated 2 U.S.C. § 433(c). At your request, on that same date, the Commission determined to enter into negotiations directed towards reaching a conciliation agreement in settlement of the 2 U.S.C. § 434(a)(6)(A) reason to believe finding prior to a finding of probable cause to believe.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If your clients agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

If you have any questions or suggestions for changes in the agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact James Brown, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION

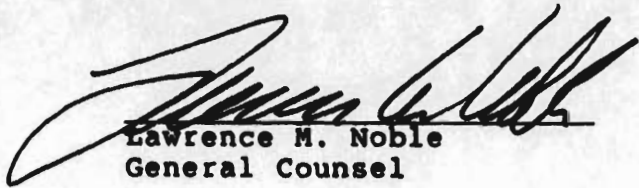
In the Matter of)
Senate Committee for Bo Thomas) MUR 3208
and Margaret S. Thomas,)
as treasurer)

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, based on the assessment of the information presently available.

Date

9/3/91


Lawrence M. Noble
General Counsel

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

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September 3, 1991

SENSITIVE

MEMORANDUM

TO: The Commission
FROM: Lawrence M. Noble
General Counsel *LM*
SUBJECT: MUR 3208

Attached for the Commission's review is a brief stating the position of the General Counsel on the legal and factual issues of the above-captioned matter. A copy of this brief and a letter notifying the respondents of the General Counsel's intent to recommend to the Commission a finding of probable cause to believe were mailed on September 3, 1991. Following receipt of the respondents' reply to this notice, this Office will make a further report to the Commission.

Attachments

- A. Brief
- B. Letter to respondents

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

September 3, 1991

Boyd B. Massagee, Jr.
Prince, Youngblood, Massagee & Jackson
240 Third Avenue West
Hendersonville, North Carolina 28739

RE: MUR 3208
Senate Committee for Bo Thomas
and Margaret S. Thomas, as
treasurer

Dear Mr. Massagee:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, and information supplied by you and your clients, on December 24, 1990, the Federal Election Commission found reason to believe that the Senate Committee for Bo Thomas ("the Committee") and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), and instituted an investigation in 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 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.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less

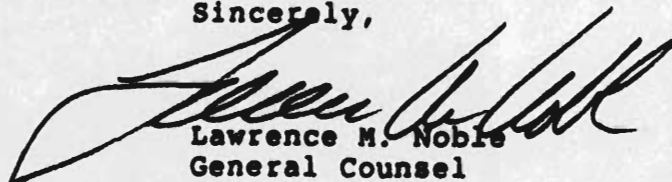
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MUR 3208
Boyd B. Massagee, Jr.
page 2

than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact James Brown, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,



Lawrence M. Noble
General Counsel

Enclosure
Brief

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Senate Committee for Bo Thomas) MUR 3208
and Margaret S. Thomas, as)
treasurer)

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

The Senate Committee for Bo Thomas ("the Committee") was the principal campaign committee of Royce P. Thomas (Bo Thomas), a candidate for the U.S. Senate in North Carolina's May 8, 1990 Primary Election.

A Reports Analysis Division ("RAD") review of the Committee's reports identified five candidate loans totaling \$345,000, that were received after the 20th day, but more than 48 hours before the May 8, 1990 Primary Election. These contributions were received on the following dates and in the indicated amounts:

Date Received	Aggregate Amount
4/19/90	\$165,000
4/23/90	\$5,000
4/27/90	\$165,000
5/3/90	\$3,500
5/4/90	<u>\$6,500</u>
TOTAL	\$345,000

48-hour reports were not filed for the above contributions. The Committee's 1990 July Quarterly Report disclosed loans

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totaling \$347,600 during April and May of 1990, which indicated that at least one (1) 48-Hour Notice had failed to be filed. Only on October 9, 1990, after the Commission had already issued a Request for Additional Information ("RFAI"), did the Committee amend its July Quarterly Report to reflect the loans above. On December 24, 1990, the Commission found reason to believe that the Senate Committee for Bo Thomas and its treasurer violated 2 U.S.C. § 434(a)(6)(A).

II. ANALYSIS

The Federal Election Campaign Act of 1971, as amended ("the Act"), requires a federal candidate's principal campaign committee to notify either the Clerk of the House, Secretary of the Senate or the Commission (and the appropriate Secretary of State), in writing, of each contribution totaling \$1,000 or more received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election.

2 U.S.C. § 434(a)(6)(A). The Act further requires this notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate, identification of the contributor, the date of receipt and the amount of the contribution. Id. According to the Act a contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. See 2 U.S.C. § 431(8)(A). Timely disclosure of such contributions, pursuant to 2 U.S.C. § 434(a)(6)(A), is in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

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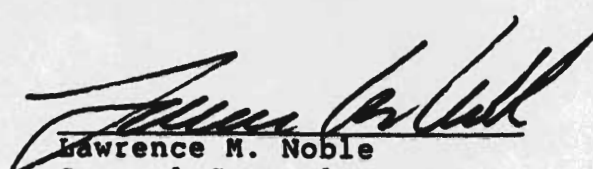
The Committee received five contributions after the 20th day, but more than 48 hours before the May 8, 1990 Primary Election. These contributions apparently were made in connection with the primary election. Therefore, 48-hour reports were required. Thus, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

Date

9/3/91


Lawrence M. Noble
General Counsel

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PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON

LAWYERS

240 THIRD AVENUE WEST

HENDERSONVILLE, NORTH CAROLINA 28739

September 12, 1991

L. B. PRINCE (1898-1992)
KENNETH YOUNGBLOOD
BOYD B. MASSAGEE, JR.
FRANK S. JACKSON
B. S. MASSAGEE III
SHARON B. ELLIS
SAMUEL H. FRITSCHNER
J. MICHAEL EDNEY

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RECEIVED
FEDERAL ELECTION COMMISSION
OF COUNSEL
J. W. JACKSON
TELEPHONE
704/692-2895
FAX LINE
704/693-0177

Federal Election Commission
General Counsel
999 E Street NW - Room 657
Washington, DC 20463

RE: MUR 3208
Brief of Senate Committee for Bo Thomas
and Margaret S. Thomas, as Treasurer

Dear Sir:

Enclosed please find three copies of the Senate Committee's Brief in the captioned matter.

Sincerely,

PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON

Sharon B. Ellis

Sharon B. Ellis

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Senate Committee for Bo Thomas
and Margaret S. Thomas, as
Treasurer

MUR 3208

SENATE COMMITTEE'S BRIEF

I. STATEMENT OF THE CASE

The Senate Committee for Bo Thomas ("the Committee") was the principal campaign committee for Royce P. Thomas, a candidate in the May 8, 1990 primary election for United States Senate from North Carolina. Margaret S. Thomas is currently the treasurer for said committee. On or about July 13, 1990, the Committee filed its July 15th quarterly report showing loans from the candidate during the time period from April 19, 1990 through June 30, 1990, in the amount of \$347,600.00. Included in this amount were five loans from the candidate which were made after the twentieth day, but more than 48 hours prior to the May 8, 1990 primary election. These loans are described as follows:

Date Received	Aggregate Amount
4/19/90	\$165,000.00
4/23/90	5,000.00
4/27/90	165,000.00
5/03/90	3,500.00
5/04/90	6,500.00

Throughout the campaign, Margaret S. Thomas, as Assistant Treasurer and later Treasurer of the Senate Committee for Bo Thomas, kept in constant contact with Pat Shepherd, Senior Reports Analyst of the Reports Analysis Division of the Federal Election Commission in a diligent effort to fully comply with all statutes and regulations applicable to funding the campaign and reporting all

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funds. Mrs. Thomas also relied heavily upon the Campaign Guide published by the Federal Election Commission.

The above-described loans were not reported as contributions within 48 hours. All other contributions received within the relevant time period were reported within 48 hours as shown on attached Exhibit A. The loans from the candidate were duly reported at the first regular reporting interval. Upon the Committee furnishing additional information to the Commission, the Commission found reason to believe that the Senate Committee for Bo Thomas and its treasurer violated 2 U.S.C. 434(a)(6)(A).

II. ANALYSIS

In July, 1988 the Federal Election Commission published a Campaign Guide For Congressional Candidates and Committees. This guide was written "to help U.S. House and Senate campaigns comply with the Federal Election Campaign Act and FEC regulations." Campaign Guide, p. 3. A copy of relevant pages of this Campaign Guide are attached as Exhibit B. This guide was sent, unsolicited, by the Federal Election Commission to the treasurer of the Committee. This Campaign Guide provides for contributions from the candidate as follows:

Contributions from the candidate must be reported by the campaign as follows:

Personal funds donated to the campaign are reported as contributions from the candidate;...

Personal funds loaned to the campaign are reported as loans from the candidate from the outset. This is necessary if the candidate wishes to be repaid; funds reported as contributions from the candidate may not later be converted to loans.

Campaign Guide, p. 11. The Campaign Guide also defines a contribution as including a loan from a member of the candidate's family. Campaign Guide, p. 5.

The Campaign Guide does not specifically provide that a loan from the candidate is a contribution.

Although 2 U.S.C. 431(e) provides that a contribution includes a loan made by any person, it is not clear that a loan from the candidate is included within the definition of contribution. A reading of the statute and regulations and several hours reading the case law interpreting the statute does not establish that loans from the candidate are contributions. This confusion is increased by referring to the Campaign Guide which makes an absolute distinction for reporting purposes, among others, between a straight contribution by a candidate and a loan. If the Committee had reported the subject loans as contributions, the candidate would then be prohibited from treating them as loans thereafter for any purpose.

2 U.S.C. 434 does indeed require that a 48 hour notice of contributions totalling \$1,000.00 received after the twentieth day but more than 48 hours prior to any election be given to the Commission. 2 U.S.C. 434(a)(6)(A). The Committee made a diligent effort to comply with this reporting requirement by sending notice of those contributions which were clearly contributions received within this reporting period by letter dated May 4, 1990. Exhibit A. The omission in reporting the loans from the candidate was based upon a careful reading of the Campaign Guide in an effort to understand the statutes and regulations and comply fully with all obligations imposed by them.

The Guide here undeniably and clearly implies that the candidate can make a loan which is not a contribution. Without this implication, the last sentence quoted from page 11 of the Campaign Guide is meaningless. The Guide is prepared by and under the direction of an agency of the federal government. It is designed by this same government to be used as a guide (by definition) to the candidate in complying with the federal statutes. THE COMMITTEE SHOULD NOT BE

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PUNISHED FOR RELYING ON IT. Ignorance of the law may in some instances be indefensible; however, reliance upon the written guide provided by the Commission for use by the Committee and treasurers, is and should be defensible. The candidate and the Committee should not be punished for such reliance.

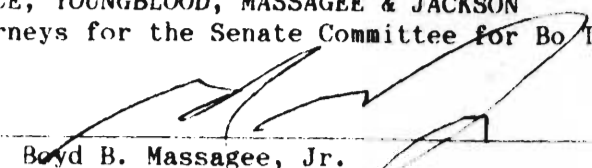
If any violation of the law exists, it is technical only. All action taken by the Committee was intended to strictly comply with all reporting requirements. Any failure to strictly comply was the result of confusion created by a careful reading of the Campaign Guide published by the Federal Election Commission. Further, the undersigned must confess some alarm that the same government who provided (without solicitation) the guide now wishes to have imposed a penalty on the candidate or the Committee for reliance on the guide, after such reliance was made.

III. SENATE COMMITTEE'S RECOMMENDATION

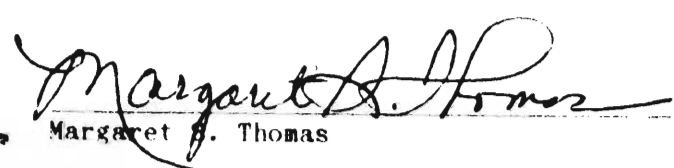
Find no probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, violated 2 U.S.C. 434(a)(6)(A).

Respectfully submitted, this the 12th day of September, 1991.

PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON
Attorneys for the Senate Committee for Bo Thomas

BY: 

Boyd B. Massagee, Jr.
240 Third Avenue West
Hendersonville, NC 28739
(704) 692-2595


Margaret S. Thomas

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May 4, 1990

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

Dear Sir or Madam:

Please consider this letter notification that two "Last-Minute Contributions" in the amount of \$1,000.00 each were received by the undersigned committee on May 3, 1990. Our primary will be held on May 8, 1990.

The contributions are as follows:

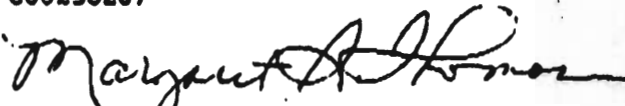
Dale Greene	Wholesale Fresh Produce
Route 3, Box 417	Self-employed
Boone, NC 28607	\$1,000.00 May 3, 1990

Betty Greene	Wholesale Fresh Produce
Route 5, Box 417	Self-employed
Boone, NC 28607	\$1,000.00 May 3, 1990

We trust this is the desired information.

Yours truly,

SENATE COMMITTEE FOR BO THOMAS
C00238287


Margaret S. Thomas
Assistant Treasurer

met

cc: Campaign Reporting Office
State Board of Elections
Post Office Box 1934
Raleigh, NC 27602

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ONE

THE COMMITTEE

This Guide was written to help U.S. House and Senate campaigns comply with the Federal Election Campaign Act and FEC regulations.

The Guide may also be used by Presidential campaigns not seeking public funds. However, certain reporting requirements differ, as explained in footnotes to the reporting chapters and Part Two.

Citations throughout this Guide refer to FEC regulations, contained in Title 11 of the Code of Federal Regulations (11 CFR). Occasional references to the Act are preceded by 2 U.S.C. (Title 2 of the United States Code). Note that this Guide supersedes the June 1985 edition.

For further information and assistance, contact the FEC:

Federal Election Commission
900 E Street, NW
Washington, D.C. 20463
800/424-9630 (toll free)
202/376-3120
202/376-3136 (TDD)

(Hearing-impaired individuals may reverse the charges when calling long-distance on the TDD number.)

Please note that campaigns have to comply with other laws; see Appendix H.



CHAPTER 1

Starting the Campaign

1. Individual Becomes a Candidate

An individual becomes a candidate¹ for Federal office—and thus triggers registration and reporting under the Act—when campaign activity exceeds \$5,000 in either contributions or expenditures. (Money raised and spent to test the waters does not count toward this dollar threshold until the individual decides to run for Federal office or conducts activities that indicate he or she is actively campaigning rather than testing the waters.²) The \$5,000 threshold is reached when:

- The individual and persons he or she has authorized to conduct campaign activity receive over \$5,000 in contributions or make over \$5,000 in expenditures; or
- The individual fails to disavow unauthorized campaign activity by writing a letter to the FEC within 30 days after being notified by the agency that another person or group has received contributions or made expenditures of more than \$5,000 on the individual's behalf. 100.3(a) and 102.13(a)(2).

2. Candidate and Committee Registration

The registration forms mentioned in this section (FEC Forms 1 and 2) are available from the FEC. Samples of completed forms appear in Part Two of this Guide.

Federal candidates and their committees should also contact the government offices and agencies listed in Appendix H for additional reporting requirements that are not within the FEC's jurisdiction.

Candidate

Within 15 days after an individual becomes a candidate, he or she must designate a *principal campaign committee*.³ This designation is made by filing either a Statement of Candidacy (FEC Form 2) or a letter with the same information. 101.1(a) and 102.12(a). The candidate files the statement with the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate.⁴ 105.1 and 105.2. A copy must also be filed with the Secretary of State (or equivalent State officer) in the State in which the candidate is running for office.⁵ 2 U.S.C. §439(a)(2)(B).

Principal Campaign Committee

Within 10 days after it has been designated by the candidate, the principal campaign committee must register by filing a Statement of Organization (FEC Form 1). 102.1(a). The committee files the registration with the Secretary of the Senate or the Clerk of the House of Representatives, as appropriate.⁴ A copy must also be filed with the Secretary of State (or equivalent State officer) in the State in which the candidate is running for office.⁵ 2 U.S.C. §439(a)(2)(B).

¹ *Italicized terms are defined in Appendix I.*

² See Appendix B for information on testing the waters.

³ A candidate may not designate, as the principal campaign committee or other authorized committee, a committee that supports more than one candidate (e.g., a party committee or a political action committee). 102.12(c) and 102.13(c).

⁴ Addresses are: Secretary of the Senate, Room 232, Hart Senate Office Building, Washington, D.C. 20510-7116; Clerk of the House of Representatives, 1036 Longworth House Office Building, Washington, D.C. 20515-6812.

⁵ A list of State filing offices is available from the FEC.

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CHAPTER 2

Understanding Contributions

1. What Is a Contribution

A contribution is anything of value given to influence a *Federal election*.¹

It is important to understand which receipts are considered contributions because:

- Contributions count toward the threshold that determines whether an individual has qualified as a *candidate* under the Federal Election Campaign Act. 100.3(a).
- They are subject to the Act's prohibitions.
- They are subject to the Act's *contribution limits*.

Like all receipts, contributions are also subject to the Act's recordkeeping and reporting requirements.

The section below describes different types of contributions. (Contribution limits and prohibitions are discussed in the chapters that follow.)

2. Types of Contributions

Gifts of Money

A contribution of money may be made by check or cash (currency), although cash contributions are subject to a special \$100 limit. There is also a \$50 limit on anonymous cash contributions. 100.7(a)(1)(ii) and 110.4(c). See page 6 for limits on contributions of currency.

Earmarked Contributions and Bundling

An earmarked contribution is one which the contributor directs (either orally or in writing) to a candidate through an intermediary or conduit. 110.6(b). Special rules govern this type of transaction; see Appendix C.

Note that when an intermediary or conduit collects and transmits contributions to the campaign (sometimes referred to as "bundling"), the special rules in Appendix C apply.

In-Kind Contributions

Definition

The donation of goods offered free or at less than the usual charge is called an in-kind contribution. Similarly, when a person pays for services on the committee's behalf, the payment is considered an in-kind contribution. An expenditure made in cooperation, consultation or concert with, or at the request or suggestion of, a candidate's campaign is also considered an in-kind contribution to the candidate. 2 U.S.C. §441a(a)(7)(B)(i).

Limits

The value of an in-kind contribution—the usual and normal charge—counts against the same contribution limit as a gift of money. 100.7(a)(1)(iii) and (a)(3).

Value

- **Goods** (such as facilities, equipment, supplies and mailing lists) are valued at the price the item or facility would cost if purchased or rented at the time the contribution is made. For example, if someone donates a personal computer to the campaign, the contribution equals the ordinary market price of the computer at the time of the contribution.
- **Services** (such as advertising, printing or consultant services) are valued at the prevailing commercial rate at the time the services are rendered.

Exceptions

Under limited exemptions in the law, persons may provide certain goods and services to a committee without making contributions. For example, when services are volunteered—not paid for by anyone—the activity is not considered a contribution. 100.7(b)(3). See page 13.

Loans

A loan, including a loan to the campaign from a member of the candidate's family, is considered a contribution to the extent of the outstanding balance of the loan. (Bank loans, however, are not considered contributions if made in the ordinary course of business. 100.7(b)(11). See page 13.) An unpaid loan, when added to other contributions from the same donor, may not exceed the contribution limit. Repayments made on the loan reduce the amount of the contribution. Once repaid in full, a loan no longer counts against the donor's contribution limit. However, a loan

exceeding the limit is unlawful even if it is repaid in full. Besides being reported as a contribution, a loan must be continuously reported as a debt until fully repaid. 100.7(a)(1)(i) and 104.3(d).

Endorsements and Guarantees of Loans

An endorsement or guarantee of a loan counts as a contribution to the extent of the outstanding balance of the loan.² Repayments made on the loan reduce the amount of the contribution. Once the loan is repaid in full, the endorsement or guarantee no longer counts against the endorser's or guarantor's contribution limit. If a written loan agreement does not stipulate the portion for which each endorser or guarantor is liable, then individual contributions are calculated by dividing the amount of the loan by the number of persons who have endorsed or guaranteed it. 100.7(a)(1)(i)(C).



¹ *Italicized terms are defined in Appendix I.*

² An exception to this rule is provided for spouses of candidates. See page 10.

What Are Not Considered Personal Funds

Personal Gifts and Loans

If any person, including a relative or friend of the candidate, gives or loans the candidate money in connection with his or her campaign, the funds are not considered personal funds of the candidate.¹⁵ Instead, the gift or loan is considered a contribution from the donor to the campaign, subject to the per-election limit and reportable by the campaign. This is true even if the candidate uses the funds for personal living expenses while campaigning. See, for example, AOs 1985-33 and 1982-64; see also AO 1987-1.

Unearned Income and Fringe Benefits

A candidate's salary or wages are considered his or her personal funds as long as there is a bona fide employment relationship between the candidate and the employer that is independent of the campaign. However, compensation paid to a

candidate in excess of actual hours worked is generally considered a contribution from the employer. If the employer is a corporation or other *prohibited source*, the excess payment would result in a prohibited contribution. 100.7(a)(3) and 110.10(b)(2). See also, for example, AOs 1980-115 and 1979-74.

Note that when a candidate is on leave without pay, the continued payment of fringe benefits (such as health insurance and retirement) may also result in contributions from the employer to the campaign. 114.12(c).

Reporting Contributions from the Candidate

Contributions from the candidate must be reported by the campaign as follows:

- Personal funds donated to the campaign are reported as contributions from the candidate;
- Campaign expenditures from personal funds are reported as in-kind contributions from the candidate;
- Personal funds loaned to the campaign are reported as loans from the candidate from the outset. This is necessary if the candidate wishes to be repaid; funds reported as contributions from the candidate may not later be converted into loans. AOs 1987-1, 1986-45 and 1977-58.

Note that if a candidate obtains a bank loan for campaign-related purposes, the campaign reports the bank as the source of the loan, rather than the candidate, although the candidate is listed as the guarantor or endorser. 104.3(a)(3)(vii)(B). For further details on reporting, see the chapter "Completing FEC Reports."

¹⁵ Bank loans obtained by a candidate are not considered contributions from the bank if certain rules are followed (see page 13). However, they must be reported, as discussed below. 100.7(a)(11).

CHAPTER 4

Prohibited Contributions

Candidate campaigns are prohibited from accepting contributions¹ from certain types of organizations and individuals. 110.9(a) and 114.2(c). These prohibited sources are listed below.²

If a committee is uncertain whether a contribution comes from a prohibited source, it should follow the procedures described under "Questionable Contributions," below.

1. Prohibited Sources

Corporations, Labor Organizations, National Banks

Campaigns may not accept contributions made from the general treasury funds of corporations, labor organizations and national banks.³ 114.2(a) and (b). This prohibition applies to any incorporated organization, profit or nonprofit, including a non-stock corporation, an incorporated membership organization and an incorporated cooperative.⁴

For example, the owner of an incorporated "mom and pop" grocery store is not permitted to use a business account to make contributions. Instead, the owner would have to use a personal account. As another example, a corporate employee may make contributions through a personal account or a *nonrepayable corporate drawing account*, which allows the individual to draw personal funds against salary, profits or other compensation.

¹ *Italicized terms are defined in Appendix I.*

² These organizations and persons are, in turn, prohibited from making contributions in connection with, or for the purpose of influencing, Federal elections.

³ National banks and Federally chartered corporations may not make contributions in connection with any election—Federal, State or local. 114.2(a).

⁴ However, a political committee that has incorporated for liability purposes only is not considered a prohibited source. 114.12(a).

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Senate Committee for Bo Thomas
and Margaret S. Thomas,
as treasurer

)
) MUR 3208
)
)
)

SENSITIVE
NOV 5 1991
EXECUTIVE SESSION

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 24, 1990, the Commission found reason to believe that the Senate Committee for Bo Thomas and its treasurer ("the Respondents") violated 2 U.S.C. § 434(a)(6)(A), for failure to file timely reports related to five candidate loans totaling \$345,000. Each of these loans was received after the 20th day but more than 48 hours before the North Carolina May 8, 1990 Primary Election in which Bo Thomas was a candidate. On April 23, 1991, the Commission determined to enter into conciliation prior to a finding of probable cause to believe and approved a proposed conciliation agreement.

After Counsel for Respondents indicated that further negotiations directed at conciliation were pointless, on September 3, 1991, this Office sent a brief to Respondents indicating that the Office of the General Counsel was prepared to recommend to the Commission that there was probable cause to

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believe Respondents violated the Act. On September 12, 1991, Respondents filed a Brief reiterating their previously stated arguments. Attachment I.

II. ANALYSIS

There is no dispute that respondents failed to file timely reports regarding five candidate loans totaling \$345,000, that were received after the 20th day, but more than 48 hours before the May 8, 1990 Primary Election. Respondents instead reassert that they relied on the Commission's Campaign Guide, which they contend is ambiguous regarding the last minute reporting requirements for candidate loans. This Office has already addressed these arguments in the General Counsel's Brief, which is incorporated herein by reference.

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

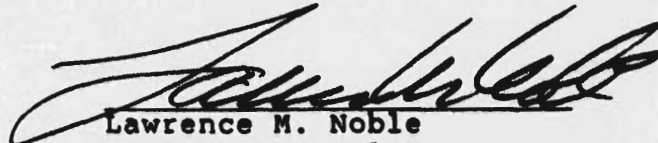
IV. RECOMMENDATIONS

1. Find probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

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2. Approve the attached conciliation agreement and appropriate letter.

Date 10/22/91


Lawrence M. Noble
General Counsel

Attachments:

- I. Respondents September 12, 1991 Brief.
- II. Conciliation Agreement (1).

Staff assigned: J. Albert Brown

92040902078

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Senate Committee for Bo Thomas) MUR 3208
and Margaret S. Thomas, as)
treasurer.)

CERTIFICATION

I, Delores Harris, recording secretary for the Federal Election Commission executive session on November 5, 1991, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions in MUR 3208:

1. Find probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).
2. Approve the conciliation agreement and appropriate letter, as recommended in the General Counsel's report dated October 29, 1991.

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

Attest:

11-8-1991

Date

Delores Harris

Delores Harris
Administrative Assistant

92040902079



FEDERAL ELECTION COMMISSION

WASHINGTON, D C 20463

November 15, 1991

Boyd B. Massagee, Jr.
Prince, Youngblood, Massagee & Jackson
240 Third Avenue West
Hendersonville, NC 28739

RE: MUR 3208
Senate Committee for Bo Thomas
and Margaret S. Thomas,
as treasurer

Dear Mr. Massagee:

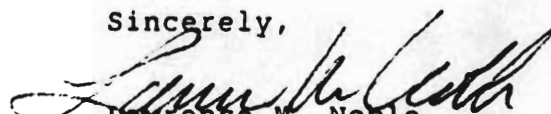
On November 5, 1991, the Federal Election Commission found that there is probable cause to believe your clients, the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with the failure to file timely reports regarding five candidate loans.

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 James Brown, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,


Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

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BEFORE THE FEDERAL ELECTION COMMISSION..

In the Matter of

Senate Committee for Bo Thomas /
and Margaret S. Thomas, as
treasurer

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)

MUR 3208

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On November 5, 1991, the Federal Election Commission found that there is probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, ("Respondents") violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act").¹ On November 15, 1991, the Commission's notification letter and a proposed probable-cause conciliation agreement were mailed to Counsel for Respondents.

II. DISCUSSION

There is no dispute that Respondents violated 2 U.S.C. § 434(a)(6)(A) by failing to timely file 48 Hour reports with regard to five candidate loans, totalling \$345,000, that were

1. On December 24, 1990, the Commission found reason to believe that the Respondents violated 2 U.S.C. § 434(a)(6)(A) by failing to timely file 48-Hour notifications for five candidate loans totalling \$345,000. The Commission approved a proposed pre-probable cause conciliation agreement

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received after the 20th day, but more than 48 hours before the May 8, 1990 North Carolina Primary Election. Nevertheless, attempts at negotiation subsequent to the Commission's probable cause to believe finding have taken the same path as those prior to that finding.

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Therefore, it is recommended that the Commission authorize this Office to file a civil suit.

III. RECOMMENDATIONS

1. Reject the conciliation counterproposal submitted by Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer.
2. Authorize the Office of the General Counsel to file a civil suit for relief in the United States District Court against the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer.
3. Approve the appropriate letter.

Date

3/6/92

Lawrence M. Noble
General Counsel

Attachment
Counterproposal (pre-probable conciliation Agreement)

Staff Assigned: Veronica M. Gillespie

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Senate Committee for Bo Thomas, and
Margaret S. Thomas, as treasurer.

)
) MUR 3208
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CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on March 10,
1992, do hereby certify that the Commission decided by a
vote of 5-0 to take the following actions in MUR 3208:

1. Reject the conciliation counterproposal
submitted by Senate Committee for Bo
Thomas and Margaret S. Thomas, as
treasurer.
2. Authorize the Office of the General
Counsel to file a civil suit for relief
in the United States District Court
against the Senate Committee for Bo
Thomas and Margaret S. Thomas, as
treasurer.

(continued)

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3. Approve the appropriate letter as recommended in the General Counsel's report dated March 6, 1992.

Commissioners Aikens, Elliott, McDonald, Potter,
and Thomas voted affirmatively for the decision;
Commissioner McGarry was not present at the time of
the vote.

Attest:

3-11-92
Date

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 16, 1992

Boyd B. Massagee, Jr.
Prince, Youngblood, Massagee & Jackson
240 Third Avenue West
Hendersonville, North Carolina 28739

RE: MUR 3208
Senate Committee for Bo Thomas and
Margaret S. Thomas, as treasurer

Dear Mr. Massagee:

You were previously notified that on November 5, 1991, the Federal Election Commission found probable cause to believe that the Senate Committee for Bo Thomas (the "Committee") and Margaret S. Thomas, as treasurer, your clients, violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended, in connection with the captioned matter.

As a result of our inability to settle this matter through conciliation within the allowable time period, the Commission has authorized the General Counsel to institute a civil action for relief in the United States District Court.

Should you have any questions, or should you wish to settle this matter prior to suit, please contact Stephen Hershkowitz, Assistant General Counsel, at (202) 219-3400, within five days of your receipt of this letter.

Sincerely,

A handwritten signature in cursive script, likely of Lawrence M. Noble, is written over the typed name.

Lawrence M. Noble
General Counsel

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PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON

LAWYERS

240 THIRD AVENUE WEST

HENDERSONVILLE, NORTH CAROLINA 28739

April 8, 1992

L. S. PRINCE (1898-1982)
KENNETH YOUNGBLOOD
BOYD B. MASSAGEE, JR.
FRANK B. JACKSON
B. B. MASSAGEE III
SHARON B. ELLIS
SAMUEL H. FRITSCHNER
J. MICHAEL EDNEY

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COMMISSION
MAIL ROOM

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J.W. JACKSON
RETIRED

TELEPHONE
704/692-2696

FAX LINE
704/693-0177

Mr. Stephen E. Hershkowitz
Assistant General Counsel
Federal Election Commission
Washington, DC 20463

RE: Senate Committee for Bo Thomas and
Margaret S. Thomas, as Treasurer
MUR 3208
Our File No. 90-431

Dear Mr. Hershkowitz:

Mr. and Mrs. Thomas are out of town and I am enclosing to you the faxed copy of the Conciliation Agreement which has been signed by the candidate and also by the treasurer.

It is my understanding that all I am suppose to do now is to return these to you. Also enclosed is a check in the amount of \$7,500.00. If this is not satisfactory with you, please return the check promptly.

Yours very truly,

PRINCE, YOUNGBLOOD, MASSAGEE & JACKSON

Boyd B. Massagee, Jr.
Boyd B. Massagee, Jr.

BBM,Jr/lew
Enclosure
cc: Royce P. Thomas

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FEDERAL ELECTION COMMISSION
FEDERAL ELECTION COMMISSION

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SENATOR R. P. (BO) THOMAS

832 FOURTH AVE., WEST
HENDERSONVILLE, NC 28739

10521

April 9 19 92

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088

PAY TO THE
ORDER OF

Federal Election Commission - \$ 7,500.00
- Seven thousand five hundred & 00/100 DOLLARS -

FIRST

First Union National Bank
of North Carolina
Hendersonville, North Carolina 28739

SENATOR R. P. (BO) THOMAS

FOR Settlement

Margaret S. Thomas

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WASHINGTON, D.C. 20463

April 21, 1992

SENSITIVE

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble *LN*
General Counsel

Richard B. Bader *RB*
Associate General Counsel

Stephen E. Hershkowitz *SH*
Assistant General Counsel

SUBJECT: Conciliation Agreement in MUR 3208

On November 5, 1991, the Commission found probable cause to believe that the Senate Committee for Bo Thomas (the "Committee") and Margaret S. Thomas, as treasurer, ("Respondents") violated 2 U.S.C. § 434(a)(6)(A) by failing to timely file 48 Hour reports with regard to five candidate loans totaling \$345,000.00 received by the Committee after the 20th day, but more than 48 hours before the May 8, 1990 North Carolina Election.

On March 10, 1992, as a result of the inability to settle this matter through conciliation within the allowable time period, the Commission authorized the General Counsel to institute a civil action for relief in the United States District Court. As a response to the suit notification letter and several subsequent negotiation telephone calls, the Respondents submitted the attached conciliation agreement. Attachment 1.

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RECOMMENDATIONS

Accept the attached conciliation agreement with the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer.

Attachments

1. Proposed conciliation agreement
2. Photocopy of civil penalty check

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Senate Committee for Bo Thomas
and Margaret S. Thomas, as
treasurer.

)
)
) MUR 3208
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CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on April 27, 1992, the Commission decided by a vote of 5-0 to accept the conciliation agreement with the Senate Committee for Bo Thomas and Margaret S. Thomas, as treasurer, as recommended in the General Counsel's Memorandum dated April 21, 1992.

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

Attest:

April 27, 1992
Date

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

Received in the Secretariat: Tues., April 21, 1992 3:51 p.m.
Circulated to the Commission: Wed., April 22, 1992 4:00 p.m.
Deadline for vote: Mon., April 27, 1992 4:00 p.m.

dr

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 4, 1992

Boyd B. Massagee, Jr.
Prince, Youngblood, Massagee & Jackson
240 Third Avenue West
Hendersonville, NC 28739

Re: MUR 3208
Senate Committee for Bo Thomas and
Margaret S. Thomas, as treasurer

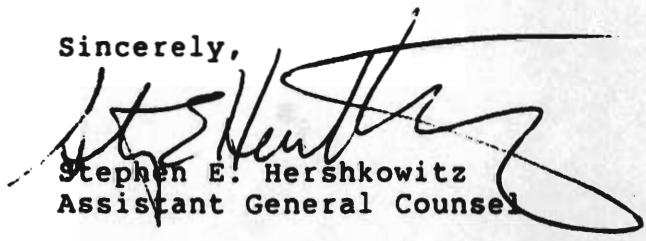
Dear Mr. Massagee:

On April 27, 1992, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your clients' behalf in settlement of a violation of 2 U.S.C. § 434(a)(6), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to your clients.

This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel. Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. Should you have any further questions regarding this matter, I may be contacted at (202) 219-3690.

Sincerely,


Stephen E. Hershkowitz
Assistant General Counsel

Enclosure

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Senate Committee for Bo Thomas) MUR 3208
and Margaret S. Thomas, as)
treasurer)

CONCILIATION AGREEMENT

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This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found probable cause to believe that the Senate Committee for Bo Thomas and Margaret S. Thomas, as its treasurer ("Respondents"), violated 2 U.S.C. § 434(a)(6)(A).

NOW, THEREFORE, the Commission and the Respondents, having duly entered into conciliation pursuant to 2 U.S.C. § 437g(a)(4)(A)(i), do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding.

II. Respondents have had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondents enter voluntarily into this agreement with the Commission.

IV. The pertinent facts in this matter are as follows:

1. The Senate Committee for Bo Thomas is a political committee within the meaning of 2 U.S.C. § 431(4) and is the principal campaign committee, within the meaning of 2 U.S.C.

§ 431(5), for Bo Thomas, a 1990 candidate in North Carolina's U.S. Senate election.

2. Margaret S. Thomas is the treasurer of the Senate Committee for Bo Thomas.

3. The Federal Election Campaign Act of 1971, as amended (the "Act"), provides that each treasurer of a principal campaign committee shall file written notifications of any contribution of \$1,000 or more received after the 20th day, but more than 48 hours before, any election. 2 U.S.C.

§ 434(a)(6)(A). This notification shall be made within 48 hours after the receipt of such contribution and shall include the name of the candidate and the office sought by the candidate, the identification of the contributor, and the date of receipt and amount of the contribution. Id. The notification required under Section 434(a)(6)(A), otherwise known as a "48-hour notice," shall be in addition to all other reporting requirements under the Act. 2 U.S.C. § 434(a)(6)(B).

4. Under the Act, a contribution is any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C. § 431(8)(A).

5. Bo Thomas participated in the 1990 primary election for North Carolina's U.S. Senate seat, held on May 8, 1990.

6. In order to comply with Section 434(a)(6)(A), the Respondents were required to file notices of all contributions of \$1,000 or more received from April 19, 1990 to May 5, 1990.

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7. During the period between April 19, 1990, and May 5, 1990, the Respondents received five loans from Bo Thomas as follows:

<u>Date</u>	<u>Amount</u>
4/19/90	\$165,000
4/23/90	\$5,000
4/27/90	\$165,000
5/03/90	\$3,500
5/04/90	\$6,500

8. Respondents did not submit 48 hour reports for the loans noted in paragraph 7, supra. Respondents contend that they did not do so because they relied on the Campaign Guide published in 1988 by the Commission, which states that a loan from a candidate should not be reported as a contribution if the candidate wishes to be repaid and to have the loan treated as a loan.

V. Respondents failed to file 48 hour notices in violation of 2 U.S.C. § 434(a)(6)(A). Respondents contend that the violation was not knowing and willful.

VI. Respondents have simultaneously submitted a civil penalty to the Federal Election Commission in the amount of seven thousand five hundred dollars (\$7,500), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with

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this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief.

VIII. This agreement shall become effective as of the date that all parties hereto have executed same and the Commission has approved the entire agreement.

IX. Respondents shall have no more than 30 days from the date this agreement becomes effective and a signed copy is delivered to Respondents to comply with and implement the requirement contained in this agreement and to so notify the Commission.

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

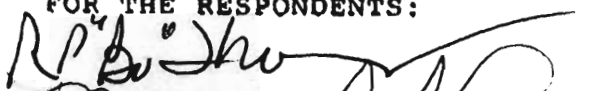
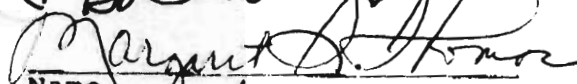
BY:


Lois G. Lerner
Associate General Counsel

Date

5/4/92

FOR THE RESPONDENTS:



Name
Position Treasurer

Date

3/25/92

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3208

DATE FILMED 5/27/92 CAMERA NO. 1

CAMERAMAN E.E.S.

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