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COUNSEL

OCT 16 8 59 AM '98

October 15, 1998

**BY FAX AND HAND DELIVERY**

Ms. Jennifer Boyt  
Office of the General Counsel  
Federal Election Commission  
999 E Street, N.W.  
Washington, D.C. 20463

**Re: MUR 4803**

Dear Ms. Boyt:

On behalf of the John Tierney for Congress Committee and Roy F. Gelineau, Jr., Treasurer, I write in response to the Complaint filed by Marc DeCoursey, Executive Director of the Massachusetts Republican Party.

The complaint alleges a violation of 11 CFR § 116.2(c)(2), a relatively recent regulation which prohibits a committee with net debts outstanding from transferring funds to another authorized committee of the same candidate. In its Explanation and Justification for the new 11 CFR part 116, the Federal Election Commission recognized "that many candidates form a new principal campaign committee for each election cycle rather than simply rolling over their previous committee. Thus a series of principal campaign committees is in many respects equivalent to an ongoing committee." 55 Fed. Reg. 26378 (June 27, 1990). Section 116.2(c)(2) of the regulations was intended to prevent impermissible corporate contributions through repeated and "substantial extensions of credit from the same incorporated vendors" which had given credit to the candidate's previous committee and to "prevent principal campaign committees from settling debts in situations where the candidate has another campaign committee capable of paying the amount owed." Id.

The Tierney Committees have not received "substantial extensions of credit from the same incorporated vendors," nor is the candidate attempting to avoid his debts. It is interesting that despite the complainant's professed concern with the Committees' debts, he conveniently omits to provide any detail on the nature of those obligations. To do so would reveal the triviality of the complaint.

[00000-0000/DA982880.047]

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In fact, the only substantial debtor of the 1996 Committee is John Tierney himself, who is owed \$82,000 of the \$98,060.31 in debt (see Attachment). The only other debtors are an unincorporated campaign consultant, Goldman Associates (\$15,000), and a hotel (\$1,060.31). Both of these campaign vendors have ongoing business relationships with the candidate and have extended credit in the ordinary course of their businesses on substantially similar terms to that offered to their other customers. Both the candidate and the debtors anticipate that all debts of the 1996 Committee will be paid in full. Given that the candidate himself is the principal debtor, it is not credible to suggest that funds were transferred to the 1998 Committee for the purpose of avoiding payment of the 1996 Committee's debts.

In Advisory Opinion 1997-10, the Commission was confronted with a similar situation. The 1992 campaign committee of former Congressman Martin Hoke transferred funds to his 1996 Committee, despite an outstanding debt in the 1992 Committee, consisting substantially of a debt to Mr. Hoke. Both the Committee and the candidate acknowledged that the transfer violated 11 CFR § 116.2(c)(2), yet no penalty appears to have been imposed. Similarly, in this case, respondents ask that no penalty be imposed.

Respondents have always made every effort to insure that all of their activities are in full compliance with both the letter and the spirit of the law. There was no intent to deceive or conceal any of the Committee's activities; all were fully disclosed on the public record. Indeed, the public reports filed by respondents were the source of the complainant's information. To the extent any mistakes were made, they were technical in nature, and do not defeat the purpose of the regulations.

For the reasons stated above, we respectfully urge that the complaint be dismissed.

Very truly yours,



Judith L. Corley  
Ellen L. Weintraub  
Counsel for Respondents

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**SCHEDULE C**  
(Revised 3/80)**LOANS**Page 1 of 2 for  
LINE NUMBER 1  
(Use separate schedules  
for each numbered line)

|   |  |                                  |                                |  |  |
|---|--|----------------------------------|--------------------------------|--|--|
| Name of Committee (in Full) <u>The John Tierney for Congress Committee</u>  |  |                                  |                                | FEC ID No <u>C00283283</u>                     |  |
| A. Full Name, Mailing Address and ZIP Code of Loan Source<br><u>John F. Tierney (from personal funds)</u><br><u>23 Beach Avenue</u><br><u>Salem, MA 01970</u> |  | Original Amount<br>of Loan       | Cumulative Payments<br>To Date | Balance Outstanding at<br>Close of This Period |  |
| Election: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):                              |  | <u>25000.00</u>                  | <u>-0-</u>                     | <u>25000.00</u>                                |  |
| Terms: Date Incurred <u>8/25/93</u> Date Due Demand Interest Rate <u>0.000 % (apr)</u> <input type="checkbox"/> Secured                                       |  |                                  |                                |  |  |
| 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<br><u>John F. Tierney (from personal funds)</u><br><u>23 Beach Avenue</u><br><u>Salem, MA 01970</u> |  | Original Amount<br>of Loan       | Cumulative Payments<br>To Date | Balance Outstanding at<br>Close of This Period |  |
| Election: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):                              |  | <u>32000.00</u>                  | <u>-0-</u>                     | <u>32000.00</u>                                |  |
| Terms: Date Incurred <u>12/31/93</u> Date Due Demand Interest Rate <u>0.000 % (apr)</u> <input type="checkbox"/> Secured                                      |  |                                  |                                |  |  |
| 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)  |  |                                  |                                | <u>57000.00</u>                                |  |
| TOTALS This Period (last page in this line only)  |  |                                  |                                |  |  |
| 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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**SCHEDULE C**

(Revised 3/80)

**LOANS**
 Page 2 of 2 for  
 LINE NUMBER 0  
 (Use separate schedules  
 for each numbered line)

|   |  |   |  |
|---|--|---|--|
| Name of Committee (in Full)<br><b>The John Tierney for Congress Committee</b>   |  | FEC ID No <b>C00283283</b>                |  |
| A. Full Name, Mailing Address and ZIP Code of Loan Source<br><b>John F. Tierney (see details at C-1)</b>                            | Original Amount of Loan<br><b>25000.00</b> | Cumulative Payments To Date<br><b>-0-</b> | Balance Outstanding at Close of This Period<br><b>25000.00</b> |
| Election: <input checked="" type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):    |  |   |  |
| Terms: Date Incurred <b>9/2/94</b> Date Due <b>Demand</b> Interest Rate <b>0.000 % (apr)</b> <input type="checkbox"/> Secured       |  |   |  |
| 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               | Balance Outstanding at Close of This Period                    |
| Election: <input type="checkbox"/> Primary <input type="checkbox"/> General <input type="checkbox"/> Other (specify):               |  |   |  |
| Terms: Date Incurred Date Due Interest Rate % (apr) <input type="checkbox"/> Secured  |  |   |  |
| 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)  |  |   | <b>25000.00</b>  |
| TOTALS This Period (last page in this line only)  |  |   | <b>82000.00</b>  |
| 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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**SCHEDULE D**  
(Revised 3/80)**DEBTS AND OBLIGATIONS**  
**Excluding Loans**Page 1 of 1 for  
LINE NUMBER 10  
(Use separate schedules  
for each numbered line)

| Name of Committee (in Full)  | Outstanding<br>Balance Beginning<br>This Period | Amount<br>Incurred<br>This Period | Payment<br>This<br>Period | Outstanding<br>Balance at Close<br>of This Period |
|--|---|-----------------------------------|---------------------------|---|
| <b>The John Tierney for Congress Committee</b>   |   |                                   |                           |   |
| <b>A. Full Name, Mailing Address and Zip Code of Debtor or Creditor</b>                        |   |                                   |                           |   |
| Goldman Associates<br>Faneuil Hall Market Place<br>Core 4, 4th Floor<br>Boston, MA 02109       | 15000.00  | -0-                               | -0-                       | 15000.00  |
| <b>Nature of Debt (Purpose):</b>   |   |                                   |                           |   |
| Communications Consult. Service  |   |                                   |                           |   |
| <b>B. Full Name, Mailing Address and Zip Code of Debtor or Creditor</b>                        |   |                                   |                           |   |
| H&C Service Corp., d/b/a<br>Hawthorne Hotel<br>18 Washington Square West<br>Salem, MA 01970    | 1060.31   | -0-                               | -0-                       | 1060.31   |
| <b>Nature of Debt (Purpose):</b>   |   |                                   |                           |   |
| Fundraising Functions  |   |                                   |                           |   |
| <b>C. Full Name, Mailing Address and Zip Code of Debtor or Creditor</b>                        |   |                                   |                           |   |
|  |   |                                   |                           |   |
| <b>Nature of Debt (Purpose):</b>   |   |                                   |                           |   |
| <b>D. Full Name, Mailing Address and Zip Code of Debtor or Creditor</b>                        |   |                                   |                           |   |
|  |   |                                   |                           |   |
| <b>Nature of Debt (Purpose):</b>   |   |                                   |                           |   |
| <b>E. Full Name, Mailing Address and Zip Code of Debtor or Creditor</b>                        |   |                                   |                           |   |
|  |   |                                   |                           |   |
| <b>Nature of Debt (Purpose):</b>   |   |                                   |                           |   |
| <b>F. Full Name, Mailing Address and Zip Code of Debtor or Creditor</b>                        |   |                                   |                           |   |
|  |   |                                   |                           |   |
| <b>Nature of Debt (Purpose):</b>   |   |                                   |                           |   |
| <b>1) SUBTOTALS This Period This Page (optional)</b>   |   |                                   |                           | 16060.31  |
| <b>2) TOTALS This Period (last page this line only)</b>  |   |                                   |                           | 16060.31  |
| <b>3) TOTAL OUTSTANDING LOANS from Schedule C (last page only)</b>                             |   |                                   |                           | 22000.00  |
| <b>4) ADD 2) and 3) and carry forward to appropriate line of Summary Page (last page only)</b> |   |                                   |                           | 98060.31  |