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BEFORE THE  
FEDERAL ELECTION COMMISSION  
OF THE  
UNITED STATES OF AMERICA

In the Matter of:

Senator Maria Cantwell;

Maria Cantwell for Senate; and

U.S. Bank National Association

Respondents

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

COMPLAINT

NATIONAL LEGAL AND POLICY CENTER, a corporation organized and existing under the District of Columbia Non-profit Corporation Act, files this complaint with the Federal Election Commission in accordance with the provisions of 2 U.S.C. §437g(a)(1) in the belief that Respondents violated provisions of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§431, et seq.

The primary purpose of the National Legal and Policy Center, a charitable and educational organization described in section 501(c)(3) of the Internal Revenue Code, is to foster and promote ethics in government. In furtherance of that purpose, National Legal and Policy Center educates the public about the "Code of Ethics for Government Service," as adopted by a Joint Resolution of Congress on July 11, 1958; and it endeavors to ensure compliance by government officials with provisions of the Code and the laws of the United States. The apparent violations alleged herein represent a serious lack of compliance with the law by an elected official, her campaign committee and a bank which lent money to her during her campaign for the U.S. Senate.

Respondents

SENATOR MARIA CANTWELL, 717 Hart Senate Office Building, Washington, D.C., 20510, (hereinafter "Cantwell") is a Senator representing the state of Washington.

MARIA CANTWELL FOR SENATE, P.O. Box 12740, Seattle, WA 98111, (hereinafter "the Committee") is a political committee established to support the Senate candidacy of Maria Cantwell.

U.S. BANK NATIONAL ASSOCIATION, 10800 NE 8th Street, Bellevue, WA, 98004, (hereinafter "the Bank") is a lending institution which lent money to Maria Cantwell during her Senate campaign.

### Facts

All facts relevant to this Complaint are to be found in documents readily available to the public. A copy of the Associated Press article ("Loans to Cantwell come into question; Borrowed funds' collateral at issue," *Washington Times*, April 15, 2001, page A3) outlining the background facts which support the complaint is attached to this complaint as Exhibit A.

Central to this Complaint are several large personal loans made to Maria Cantwell during 2000 when she was a candidate for the U.S. Senate.

As reported by Associated Press:

- Cantwell pledged as collateral a \$375,000 home to set up a \$600,000 line of credit despite FEC rules requiring collateral for a campaign loan to be at least as much as the loan.
- On a second loan, a \$4,000,000 line of credit on which Cantwell ended up borrowing \$3.2 million, Cantwell pledged as collateral RealNetworks stock which was then worth \$5.6 million. Both loans were from U.S. Bank and on both Cantwell received the lender's prime rate, "potentially saving her tens of thousands of dollars" according to the Associated Press article. The article went on to state, "FEC rules prohibit candidates from receiving a more favorable rate than another bank customer for the same type of loan."
- While Cantwell had a legal obligation to disclose both loans by mid-October in her committee's report to the FEC, she failed to make any disclosure until January 31, 2001, and then only after receiving two letters from the Federal Election Commission. After illegally failing to disclose the large loans during the campaign, Cantwell was elected by a mere 2,229 votes.

### Apparent Violations

The gravamen of this complaint is quite simple: Cantwell violated federal election law by securing an under-collateralized loan and by using the proceeds of two loans secured at rates below those available to the general public to finance her campaign. The appearance of impropriety is further underscored by the fact that Cantwell's committee kept the illegal loans secret by failing to properly disclose the loan terms in a timely manner as strictly required by federal election law.

### Insufficient Collateral for \$600,000 Credit Line

It is beyond dispute that a candidate for the U.S. Senate who secures a loan or line of credit to benefit her campaign and who provides collateral for that transaction must provide collateral which is worth at least the loan amount.

Specifically, FEC regulations require that "the fair market value of the collateral is equal to or greater than the loan amount and any senior liens as determined on the date of the loan." 11 C.F.R. § 100.7(b)(11)(i)(A)(1)

In this case, Cantwell used an asset worth \$375,000 as collateral for a \$600,000 line of credit which she used to subsidize her campaign. On its face, the collateral's fair market value was significantly less than the value of the line of credit and therefore the transaction violated FEC regulations and federal election law.

FEC regulations require that candidates borrowing money for their campaigns file a specific form (Schedule C-1) which discloses pertinent information regarding the loan. The form requires the signature of a representative of the lending institution acknowledging the requirements of the FEC regulations, including the requirement cited above that collateral be worth at least as much as the loan. The Schedule C-1 provided by the Committee was signed by Carla S. Haddow, a Vice President of U.S. Bank on January 25, 2001, many months after the loan was granted. (see Exhibit B) Ironically, the statement affirmed by Ms. Haddow included an assurance that the loan "must be made on a basis that assures repayment." Contrast that hollow post-election assurance with the fact that the Associated Press account of this story states that when Cantwell's committee's loan came due last month, "she was unable to pay and had to renegotiate the terms."

Put simply, Cantwell borrowed money for her campaign at a below-market rate and with insufficient collateral. She then failed to disclose the credit terms as required by federal election law and only disclosed them after being twice contacted by the FEC. Her banker signed a Schedule C-1 falsely attesting that all requirements of FEC regulations had been met when they clearly had not. Shortly afterward, Cantwell was unable to repay the loan and had to renegotiate the terms.

#### Favorable Interest Rate Subsidizes Cantwell Campaign

While candidates for federal office are permitted to provide unlimited personal funds to their own campaign, federal election law and FEC regulations strictly require that any loan to the candidate bear the bank's usual and customary interest rate. Any favoritism or below-market interest rate is tantamount to an illegal corporate loan to subsidize a race for federal office.

In the Cantwell case, the two loans cited in the Associated Press story both carried extremely favorable interest rates. As the Committee's belatedly filed Schedule C-1 attests, Cantwell listed the interest she was being charged as "Lender's Prime Rate."

The Federal Election Commission's Campaign Guide for Congressional Candidates and Committees (1999) summarizes FEC regulations with respect to bank loans as follows:

#### **1. Bank Loans**

##### **Conditions**

**A candidate or his or her committee may obtain a loan, including a line of credit, from a bank, provided that the loan:**

- **Bears the bank's usual and customary interest rate for the category of loan involved; and**
  - **Is evidenced by a written instrument; and**
  - **Is subject to a due date or amortization schedule; and**
  - **Is made on a basis that assures repayment.**
- 100.7(b)(11)**

**If a loan fails to meet any of these conditions, then a prohibited contribution from the lending institution results.**

It strains credulity to believe that the lender's prime rate provided to Cantwell by U.S. Bank for the two loans she used to fund her campaign are the "usual and customary interest rate" for the types of loans made. It would be interesting to see if other candidates or even the general public could obtain such rates for loans of the same amount.

The Associated Press story noted the fact that Cantwell received the lender's prime rate on both loans "potentially saving her tens of thousands of dollars." To the extent those savings materialized through an interest rate demonstrably lower than the bank's usual and customary rate, those funds constitute an illegal corporate contribution to the candidate.

#### Failure to Disclose Loan Terms Constitutes Reporting Violation

As has already been noted, Cantwell's committee had a legal obligation to disclose the questionable loans in the reports filed with the Federal Election Commission in mid-October. The necessary disclosure made in the FEC Schedule C-1 was not made until January 31, 2001 and only after two letters from the FEC to the Committee prodding them on the issue. Violations of law are often accompanied by cover-ups by those violating the law. In this case, Cantwell denied the public the right to know important details as to how she was financing her campaign. Only after she won election by a paper-thin margin of 2,229 votes was the proper disclosure made.

#### Conclusion

The Associated Press account of the Cantwell campaign financing irregularities noted that Cantwell had made campaign finance reform "her signature issue." Had the voters of Washington known in mid-October that Cantwell was using an under-collateralized loan and loans with below market rates to subsidize her campaign in the final weeks, both clear violations of FEC regulations, the outcome of the election may very well have shifted. And a shift of less than 1,500 votes would have changed the outcome.

It would be difficult to imagine a more compelling example of abuse of election laws than one in which the outcome of an election was affected by both multiple violations of election law followed by a failure to disclose information which is clearly required to be disclosed.

None of the essential facts set forth in this complaint are in dispute.

Nor are the legal questions difficult to answer.

Put simply:

- Is a line of credit for \$600,000 fully collateralized when it is secured by an asset worth just \$375,000? Of course not. The law requires that the asset used as collateral be equal to or great than the amount of the loan or credit at the time the transaction takes place.
- Is lender's prime rate as the interest on the two loans in this case the bank's usual and customary interest rate? Of course not and any examination of six-figure loans provided by the bank in question last year would easily demonstrate that this was a very favorable and unusual rate.

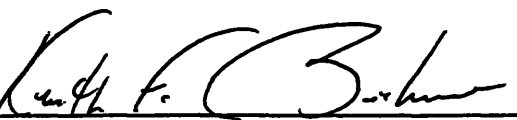
- Is a filing of a Schedule C-1 by a campaign on January 31, 2001 a timely filing when FEC regulations clearly require the filing in mid-October? Of course not.

The fact that Cantwell subsequently was unable to pay back her loans on a timely basis and had to renegotiate the terms only underscores the seriousness of the violations and the very reasons the laws were enacted in the first place.

Given the compelling fact pattern and the very real possibility that the violations of law alleged in this complaint may well have affected the outcome of a Senate race and potentially the balance of power in the Senate itself, the public is entitled to a full and prompt investigation of this matter. Anything less would make a mockery of federal election law.

NATIONAL LEGAL AND POLICY CENTER

By:



Kenneth F. Boehm  
Chairman

Subscribed and sworn before me this 17th day of April, 2001

Falls Church  
Virginia

Embossed Hereon Is My  
Commonwealth of Virginia Notary Public Seal  
My Commission Expires August 31, 2004  
JULIETTA FANNOH

My commission expires:



Notary Public

**EXHIBIT A**

# Nation

## Loans to Cantwell come into question

### Borrowed funds' collateral at issue

ASSOCIATED PRESS

Sen. Maria Cantwell has gone in a year from a mega-millionaire Senate candidate some accused of trying to buy a seat to a senator who needs help paying off campaign debts. Now there are questions about whether she bent campaign finance laws when she borrowed \$3.8 million.

A former executive at Internet media company RealNetworks, the Washington Democrat's stock in the company has taken a huge hit on Wall Street, losing about 80 percent of its value in recent months. When a \$3.2 million loan came due last month, she was unable to pay and had to renegotiate the terms.

Such a scenario would have been unthinkable last year, when Miss Cantwell was worth as much as \$80 million and was on her way to spending about \$13 million of her own money in upsetting Republican incumbent Sen. Slade Gorton.

Campaign-finance reform was her signature issue. Rather than take unregulated donations to the Democratic Party from unions, corporations and individuals, she sold RealNetworks stock and filled her campaign coffers with \$6.5 million. Her wealth also helped her obtain favorable interest rates on two credit lines from Minneapolis-based U.S. Bank.

Miss Cantwell pledged as collateral her \$375,000 home in Edmonds, Wash., to set up a \$600,000 credit line with the bank, according to documents filed with the Federal Election Commission. However, FEC rules require that collateral for a campaign loan be at least as much as the loan.

Larry Noble, former FEC general counsel, said Miss Cantwell could meet the "fully collateralized" standard other ways, such as guaranteeing the loan with another account or other assets. But loan papers filed with the FEC do not indicate Miss Cantwell had any such arrangement.

"If she doesn't have those, it clearly raises a question," said Mr. Noble, now executive director of the Center for Responsive Politics, a government watchdog group.

Miss Cantwell referred all questions about the loans to spokesman Michael Meehan.

"The bank takes a look at the financial assets of the borrower. Clearly, Senator Cantwell had assets anywhere between \$40 and \$80 million at the time of the loan," Mr. Meehan said. "This is a judgment a bank makes."

Mr. Meehan directed further questions to U.S. Bank, which for privacy reasons would not acknowledge Miss Cantwell is a customer.

For a \$4 million credit line last September, Miss Cantwell pledged as collateral RealNetworks stock that at the time was worth \$5.6 million. She ended up borrowing \$3.2 million.

On both loans, Miss Cantwell received the lender's prime interest rate, potentially saving her tens of thousands of dollars.

FEC rules prohibit candidates from receiving a more favorable rate than another bank customer would get for the same type of loan. Mr. Noble said the FEC could ask Miss Cantwell to show she got the rate in the usual course of business.

"They are going to have to show that this is what other people are getting," he said.

Under FEC rules, Miss Cantwell should have disclosed the complete terms of both credit lines by mid-October. But she didn't do so until Jan. 31, after getting two letters from the FEC.

"In a very basic way she cheated," Washington state Republican Party Chairman Chris Vance said. "That gave her an unfair advantage" in a race that was decided by just 2,229 votes.

Mr. Meehan denied the delay gave Miss Cantwell any advantage.

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**EXHIBIT B**



LOANS AND LINES OF CREDIT FROM LENDING INSTITUTIONS

NAME OF COMMITTEE (IN FULL) Maria Cantwell for US Senate	FEC IDENTIFICATION NUMBER C00349506	
FULL NAME, MAILING ADDRESS AND ZIP CODE OF LENDING INSTITUTION (LENDER) US Bank 10800 NE 8th Street Bellevue, WA 98004	AMOUNT OF LOAN \$600,000 Line of Credit	INTEREST RATE (APR) Lender's Prime Rate
	DATE INCURRED OR ESTABLISHED 7-31-00	DATE DUE 6/4/01

A. Has loan been restructured? ☒ No ☐ Yes If yes, date originally incurred: \_\_\_\_\_

B. If line of credit, amount of this draw: 0 ; total outstanding balance: 0

C. Are other parties secondarily liable for the debt incurred?

☐ No ☒ Yes (Endorsers and guarantors must be reported on Schedule C.)

D. Are any of the following pledged as collateral for the loan: real estate, personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receivable, cash on deposit, or other similar traditional collateral?

☐ No ☒ Yes If yes, specify: Deed of Trust on personal residence

What is the value of this collateral? \$ 375,000.00

Does the lender have a perfected security interest in it? ☐ No ☒ Yes

E. Are any future contributions or future receipts of interest income, pledged as collateral for the loan?

☒ No ☐ Yes If yes, specify: \_\_\_\_\_ What is the estimated value? \_\_\_\_\_

A depository account must be established pursuant to 11 CFR 100.7(b)(11)(i)(B) and 100.8(b)(12)(i)(B). Date account established: \_\_\_\_\_ Location of account: \_\_\_\_\_

F. If neither of the types of collateral described above was pledged for this loan, or if the amount pledged does not equal or exceed the loan amount, state the basis upon which this loan was made and the basis on which it assures repayment.

Reliance on borrower's net worth

G. COMMITTEE TREASURER

TYPED NAME Keith Grinstein

SIGNATURE

DATE

1/26/00

H. Attach a signed copy of the loan agreement.

I. TO BE SIGNED BY THE LENDING INSTITUTION:

I. To the best of this institution's knowledge, the terms of the loan and other information regarding the extension of the loan are accurate as stated above.

II. The loan was made on terms and conditions (including interest rate) no more favorable at the time than those imposed for similar extensions of credit to other borrowers of comparable credit worthiness.

III. This institution is aware of the requirement that a loan must be made on a basis which assures repayment, and has complied with the requirements set forth at 11 CFR 100.7(b)(11) and 100.8(b)(12) in making this loan.

AUTHORIZED REPRESENTATIVE Carla S. Haddow TYPED NAME	SIGNATURE <i>Carla S. Haddow</i>	TITLE Vice President	DATE 1/25/01
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