



FEDERAL ELECTION COMMISSION

1325 K STREET NW
WASHINGTON, D.C. 20543

THIS IS THE END OF MUR # 1998

Date Filmed 10/12/85 Camera No. --- 3

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Routing cards & slips

Commissioner objection memo

Request for p-pctb. Council. in ltr. dtd 6-18-85.

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

 (1) Classified Information

 (6) Personal privacy

 (2) Internal rules and practices

 (7) Investigatory files

 (3) Exempted by other statute

 (8) Banking Information

 (4) Trade secrets and commercial or financial information

 (9) Well Information (geographic or geophysical)

✓ (5) Internal Documents

Signed

date

George Dimingrot
10/11/85

FEC 9-21-77

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 4, 1985

Amos Hugh Scott, Esquire
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, Massachusetts 02109

Re: MUR 1998
Mutual Bank
Keith Willoughby

Dear Mr. Scott:

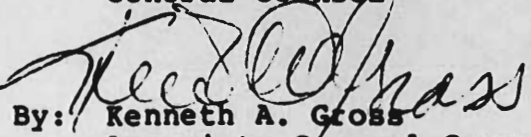
On May 8, 1985, the Commission found reason to believe that your clients had violated 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, on September 10, 1985, the Commission determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

If you have any questions, please direct them to George Demougeot, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Charles N. Steele
General Counsel


By: Kenneth A. Gross
Associate General Counsel

85040553575



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 20, 1985

Amos Hugh Scott, Esquire
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, Massachusetts 02109

Re: MUR 1998
Mutual Bank
Keith G. Willoughby

Dear Mr. Scott:

On May 8, 1985, the Commission found reason to believe that your clients had violated 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, on 1985, the Commission determined to take no further action and close its file.

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If you have any questions, please direct them to George Demougeot, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

John W. McGarry
Chairman

85040553576



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Amos Hugh Scott, Esquire
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, Massachusetts 02109

*RVT
a/12/85*

Re: MUR 1998
Mutual Bank
Keith G. Willoughby

Dear Mr. Scott:

On May 8, 1985, the Commission found reason to believe that your clients had violated 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, on 1985, the Commission determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

If you have any questions, please direct them to George Demougeot, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Mutual Bank) MUR 1998
Keith G. Willoughby)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session of September 10,
1985, do hereby certify that the Commission decided by a vote
of 4-2 to take the following actions in MUR 1998:

1. Take no further action against Mutual Bank
and Keith G. Willoughby, as President of
Mutual Bank.
2. Approve the letter attached to the General
Counsel's report dated August 29, 1985.
3. CLOSE THE FILE.

Commissioners Aikens, Elliott, Josefiak, and McGarry
voted affirmatively for the decision; Commissioners Harris
and McDonald dissented.

Attest:

9-10-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *Ed*
DATE: August 29, 1985
SUBJECT: MUR 1998 - General Counsel's Report

The attached is submitted as an Agenda document
for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS

48 Hour Tally Vote ☒
Sensitive ☒
Non-Sensitive ☐

24 Hour No Objection ☐
Sensitive ☐
Non-Sensitive ☐

Information ☐
Sensitive ☐
Non-Sensitive ☐

Other ☐

DISTRIBUTION

Compliance ☒
Audit Matters ☐

Litigation ☐
Closed MUR Letters ☐

Status Sheets ☐
Advisory Opinions ☐

Other (see distribution
below) ☐

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SENSITIVE

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Mutual Bank
Keith G. Willoughby

)
)
)
)

MUR 1998

GENERAL COUNSEL'S REPORT

I. BACKGROUND

This matter is based on separate referrals from the Federal Home Loan Bank Board ("FHLBB") and the Department of Justice. On May 8, 1985, the Commission found reason to believe that Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, violated 2 U.S.C. § 441b(b)(3)(C), by failing to inform employees of Mutual Bank of their right to refuse to contribute to a solicitation without fear of reprisal. The violation centered on a memorandum issued by Mr. Willoughby on October 26, 1984, to "All Officers of Mutual Bank" concerning their "unacceptable" response to a prior appeal to contribute to Massachusetts Thrift PAC and Thrift PAC. The memorandum stated, in part, that "[e]very single officer of this institution should --must-- consider it a part of his or her position to contribute to Massachusetts Thriftpac and Thriftpac." A total of \$281.50 was contributed by Mutual Bank employees after the October 26 memorandum.

On March 11, 1985, a plea agreement was filed in the U.S. District Court for the District of Massachusetts in which Mutual Bank admitted a criminal violation of 2 U.S.C. § 441b(b)(3)(C). (Attachment I) On March 29, Mutual Bank paid a \$25,000 fine, the maximum fine for this violation. We note that Keith G. Willoughby, Chairman of the Board, signed this agreement

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along with counsel on behalf of Mutual Bank.

In response to the Commission's reason to believe finding, respondents request that the Commission take no further action in this matter. (Attachment II) Further, should the Commission decide to pursue this matter, the Respondents request to enter into pre-probable cause conciliation. (Attachment III)

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(b)(3)(C) prohibits any person soliciting an employee for a contribution to fail to inform such employee, at the time of the solicitation, of his right to refuse to so contribute without any reprisal.

In response to the Commission's reason to believe determination, Respondents acknowledge a violation of 2 U.S.C. § 441b(b)(3)(C), but request that the Commission, given the prior criminal disposition of this matter, take no further action. Respondents state that Mr. Willoughby did not intend that the October 26 memorandum be coercive and, further, that Mr. Willoughby was unaware of the requirement of 2 U.S.C. § 441b(b)(3)(C). Respondents point out that October 26 appeal was not very coercive as a practical matter considering that it only raised an additional \$281.51. */ However, Respondents go on to acknowledge that the October 26 memorandum clearly did not advise the Bank employees of their right to decline to contribute without any reprisal as required.

*/ Respondents suggest that the insertion of the word "must" into the offending passage was simply a "stylistic flourish to emphasize the word 'should' and was not intended to alter the precatory or exhortative notion of 'should' into a mandate."

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While we do not agree with the assertions of the respondent essentially characterizing the violation as benign, we do believe that the violation has been redressed. Mutual Bank has acknowledged a criminal violation of 2 U.S.C. § 441b(b)(3)(C) and paid the maximum fine for such a violation. For these reasons, the Office of General Counsel recommends that the Commission take no further action in this matter.

RECOMMENDATION

1. Take no further action against Mutual Bank and Keith G. Willoughby, as President of Mutual Bank.
2. Approve the attached letter.
3. Close the file.

August 29, 1985
Date

Charles N. Steele
General Counsel

By:

Kenneth A. Gross
Kenneth A. Gross
Associate General Counsel

Attachments

- I. Plea Agreement
- II. Letter from Respondent dated 5/24/85
- III. Letter from Respondent dated 6/18/85
- IV. Proposed letter

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UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)

v.)

MUTUAL BANK, fsb)

CRIMINAL NO.

VIOLATIONS:

2 U.S.C. §441b(b)(3)(C)

2 U.S.C. §437g(d)

I N F O R M A T I O N

The United States Attorney charges as follows:

At all times material hereto:

1. The MUTUAL BANK fsb, defendant herein, was a banking institution organized under the banking laws of the Commonwealth of Massachusetts and chartered by the Federal Home Loan Bank Board.

2. Keith Willoughby was the Chairman of the Board and the President of the defendant MUTUAL BANK.

3. Federal law prohibited corporations, including MUTUAL BANK, from making political contributions. However, it did allow, under certain conditions, the solicitation of individual employees for voluntary contributions to political action committees.

4. The National Council of Savings Institutions (NCSI) was a trade association, the membership of which consisted of banking institutions throughout the United States. The purpose of NCSI was to promote the interests of the thrift industry, and to influence the nomination and election of candidates for elective office whose views were favorable to the thrift industry.

Attachment I
①

5. "Thriftpac" was a political action committee organized pursuant to 2 U.S.C. §§432 and 433, Federal Election Campaign Act (FECA), and affiliated with NCSI pursuant to 2 U.S.C. §441b(b)(4), FECA, to solicit voluntary contributions from the executive and administrative personnel of member banks, and to recontribute the funds thus raised to influence the nomination and election of candidates for various federal offices.

6. On or about May 10, 1984, the defendant MUTUAL BANK, acting through its officer and agent Keith Willoughby, authorized Thriftpac to solicit voluntary political contributions from the executive and administrative personnel of the said MUTUAL BANK, pursuant to 2 U.S.C. §441b(b)(4)(D), FECA.

7. On or about August 15, 1984, an internal Bank Memorandum was sent to "All Officers" soliciting contributions to Thriftpac.

8. On or about October 26, 1984, Willoughby sent another Memorandum to "All Officers of Mutual Bank." This memorandum referred to the August memorandum, and then stated that the Bank's officers had failed to reach the Thriftpac "goal." The October memorandum then stated, "Even worse, only nineteen of the fifty-nine officers in the bank have contributed. That is unacceptable. ... you should, as officers of this bank, all support the PAC's. Every single officer of this institution should -- must -- consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac. Please send your checks, not later than next Friday, to [the Bank's Thriftpac Coordinator] to be forwarded."

Attachment I
(2)

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9. The violations of the FECA described herein involved the making and receipt of contributions which aggregated in excess of \$250.00 during the calendar year of 1984.

10. On or about October 26, 1984, at Boston and within the District of Massachusetts, the defendant,

MUTUAL BANK,

acting through its officer, agent and employee Keith Willoughby, knowingly and willfully solicited contributions to Thriftpac from employees of the aforesaid MUTUAL BANK, without informing said employees, at the time of the solicitation, of their right to refuse to make the contribution thus solicited without fear of any reprisal.

All in violation of Title 2, United States Code, Section 441b(b)(3)(C) and Title 2, United States Code, Section 437g(d).

WILLIAM F. WELD
United States Attorney

DANIEL I. SMALL
Assistant U.S. Attorney

Attachment I
(3)

85040553585

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

MUTUAL BANK, fsb

CRIMINAL NO.

NOTICE OF PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(e)(2), the parties hereby give the Court notice of a plea agreement in this case, which agreement is attached hereto.

For the United States of America,

DANIEL I. SMALL
Assistant U.S. Attorney

For the defendant,

Amos Hugh Scott
AMOS HUGH SCOTT
Counsel for Mutual Bank, fsb

Attachment I

(4)

85040553586



United States Attorney
District of Massachusetts

1107 J.W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

March 6, 1985

Amos Hugh Scott, Esq.
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

Dear Mr. Scott:

I am writing to confirm our agreement of today concerning matters pertaining to Mutual Bank, fsb.

The United States, by and through its undersigned attorneys, and Mutual Bank, fsb, by and through its undersigned attorney and Chairman of the Board of Directors, hereby enter into the following agreements:

(1) Mutual Bank, fsb, agrees to plead guilty to a one count Information (copy attached) charging it with violation of Title 2 U.S.C. §§441b(b)(3)(C) and 437g(d).

(2) The United States agrees to recommend to the sentencing judge a \$17,000 fine as the appropriate sentence against Mutual Bank on this matter.

(3) The United States agrees to bring no criminal charges, other than the present Information, against Mutual Bank or its trustees, officers, employees and agents on account of any violations of Title 2 of the United States Code regarding the solicitation of contributions for bank industry political action committees, or based upon any matter which was the subject of the investigation leading to the present Information, all through the date of this agreement.

(4) The United States Attorney views the disposition contained in this letter as constituting a full and appropriate settlement of all aspects of the matter which is the subject of this Information.

Attachment I
(5)

The above constitutes the entire agreement between the parties. No additional agreements exist, and no further agreements will exist unless agreed to in writing.

Sincerely,

William F. Weld

WILLIAM F. WELD
United States Attorney

Daniel I. Small

DANIEL I. SMALL
Assistant U.S. Attorney

Agreed to for Mutual Bank, fsb:

Date: March 6, 1985

Keith G. Willoughby
Keith G. Willoughby
Chairman of the Board and
President

Date: March 6, 1985

Amos Hugh Scott
Amos Hugh Scott
Counsel for Mutual Bank, fsb

Attachment I
(6)

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CHOATE, HALL & STEWART

EXCHANGE PLACE

53 STATE STREET

BOSTON, MASSACHUSETTS 02109

TELEPHONE (617) 247-5020

TELECOPIER (617) 227-7566

TELEX 289374

CHARLES F. CHOATE, JR.

1899-1927

JOHN L. HALL

1899-1960

RALPH A. STEWART

1904-1926

May 24, 1985

John Warren McGarry, Chairman
Federal Election Commission
Washington, D.C. 20463

Re: Matter Concerning Mutual Bank, MUR 1998

Dear Sir:

This law firm represents Mutual Bank and its president, Keith G. Willoughby, in connection with the matter pending before the Federal Election Commission as MUR 1998. Please see the enclosed executed "Statement of Designation of Counsel."

This letter responds to your letter of May 15, 1985, informing the bank of your investigation and indicating that the bank could submit relevant factual or legal materials for consideration by the Commission within ten days of the receipt of your letter.

The bank wishes to provide the Commission with some detailed factual background concerning the subject of your investigation and to explain why we suggest that further proceedings by the F.E.C. are not warranted, given the circumstances of this matter.

Attachment II

(7)

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Background concerning Mutual Bank
and ThriftPAC

ThriftPAC is a federal political action committee established by the National Association of Mutual Savings Banks, and Massachusetts ThriftPAC is its state-level counterpart, established by the Savings Bank Association of Massachusetts. These political action committees annually conduct fund raising drives in which most savings banks both at the state and national level participate.

For the last several years, Massachusetts ThriftPAC has during the late spring of each year mailed a solicitation letter and brochure directly to the individual officers of the various savings banks throughout the state. Exhibits 1, 2, 3, 4 and 5. The Massachusetts ThriftPAC brochures follow a similar general format, soliciting funds not only for Massachusetts ThriftPAC but also for the national ThriftPAC and indicating that checks for both committees may be forwarded to Massachusetts ThriftPAC, which will in turn forward the national checks on to the national ThriftPAC.

A number of Mutual Bank's officers each year responded directly to the spring Massachusetts ThriftPAC solicitation letter, sending their contributions to the political action committee. In addition, Mutual Bank itself has each year supported the solicitation of funds from its officers by both Massachusetts ThriftPAC and the national ThriftPAC. Although

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senior management at the bank was advised of the aggregate totals of contributions, pursuant to bank policy the campaign administrator held the names of individual contributors confidential and senior management was unaware of which officers had given. This policy of confidentiality for donors was clearly communicated to the bank's officers.

The 1984 Massachusetts ThriftPAC letter to individual bank officers was dated May 9. Exhibit 4. On August 15, 1984, Mutual Bank's senior management addressed an in-house memorandum to all officers concerning the fund drive. Exhibit 6. Officers were "encouraged" to support these committees and were told that "Names of contributors will be kept confidential." On October 26, 1984, a follow-up memorandum prepared by the bank's president, Keith G. Willoughby, was circulated to the officers. Exhibit 7. The memorandum contained a decidedly energetic importuning for contributions. As a result of the 1984 campaign, Mutual Bank officers contributed a total of \$1,532 to the two ThriftPACs, roughly 13% less than had been contributed in 1983, 22% less than 1982, and 59% less than in 1981.¹ The 1984 contributions to federal ThriftPAC were

^{1/} ThriftPAC contributions from Mutual Bank officers for 1981 through 1984 were:

	<u>National ThriftPAC</u>	<u>Mass. ThriftPAC</u>	<u>TOTAL</u>
1981	\$754	\$3006	\$3760

(Footnote Continued on Next Page)

\$475.50, of which \$281.50 was donated after the October 26 memorandum.

No Mutual Bank representative has ever conducted a group meeting of employees to solicit funds or engaged in face-to-face personal solicitation. Mutual Bank has never in any fashion advised any officer or employee that failure to contribute would result in any type of reprisal, discrimination, or adverse employment effect. In point of fact, no Mutual Bank employee has ever suffered any adverse employment consequence as a result of his or her decision not to make a contribution. Bank policy has always been not to compel or coerce any employee into contributing to any cause or fund which he or she does not personally and voluntarily support -- including the United Way.

Indeed, senior management of the bank was not in a position to have penalized non-contributors, because the representations of confidentiality made to officers were scrupulously adhered to. Although the "ThriftPAC coordinator" was the bank's operations officer, in practice his secretary served as administra-

1/ (Footnote Continued From Previous Page)

1982	\$895.50	\$1069.50	\$1965
1983	\$823	\$ 932	\$1755
1984	\$475.50	\$1056.50	\$1532

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tor for the program. It was she who received all of the contribution checks which employees chose to route through the bank, as opposed to mailing in directly. Although the checks were generally addressed to her boss, the bank's operations officer, his practice was to refer the checks, frequently in unopened envelopes, directly to her. She then held the checks, making note of them on a contemporaneous chronological log, until she had assembled a large enough number to transmit to the state ThriftPAC.² She then prepared the transmittals of checks to Massachusetts ThriftPAC. She clearly understood from senior management of the bank, both the president and vice-chairman, that they absolutely did not want to know the names of individual contributors. Although Mutual Bank desired to encourage participation in the ThriftPAC program, the bank's statement to its officers of confidentiality was consistently adhered to.

Background concerning the October
26 Memorandum

The October 26 memorandum, although decidedly strong in tone, was not -- when viewed against the context in which it

2/ Her handwritten list, maintained by her on her own initiative and for her own convenience, is the only listing of contributors. This list was never shown to senior management, or even to her boss. Hence, the suggestion on page 2 of the F.E.C. "General Counsel's Factual and Legal Analysis" that "the bank kept a list of who contributed" is misleading.

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was sent --inconsistent with the bank's firm policy that donations be voluntary and noncoercive. The memorandum was not addressed to the public at large, and many factors, including the intent of its author, the circumstances under which it was prepared, the environment at the bank against which it was received by the officers, the reactions of specific individual officers, and the actual success rate of the responses, must be considered to put the memorandum in context.³

3/ The principle that written words, no matter how facially unequivocal, can only be truly understood by placing them in the context of their surrounding circumstances is deeply rooted in our jurisprudence. As Professor Corbin has written concerning the venerable art of contract interpretation:

. . . A "normal speaker of English" (or of Sanskrit) could give it no meaning without knowing surrounding circumstances. . . .

* * *

. . . it can hardly be insisted on too often or too vigorously that language at its best is always a defective and uncertain instrument, that words do not define themselves, that terms and sentences in a contract, a deed, or a will do not apply themselves to external objects and performances. . . . Therefore, it is invariably necessary, before a court can give any meaning to the words of a contract . . . , that extrinsic evidence shall be heard to make the court aware of the "surrounding circumstances," including the persons, objects, and events to which the words can be applied and which caused the words to be used.

3 A. Corbin, Corbin on Contracts 16, 27-28 (1960).

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Since the creation of Mutual Bank in 1981, its president has been dedicated to developing a forward-thinking, aggressive, and competitive environment at the bank. As a part of this approach, he has endeavored to encourage a strong sense of two-way communication between junior officers and senior management. He has sought to encourage the view that, while he is a person of strong opinions and direct communication, he desires and expects the same back to him from lower-level managers. A concrete example of the president's efforts to encourage this type of management interchange and atmosphere is the fact that, during the fall of 1984, the president participated in a series of informal wine and cheese meetings with the bank's junior officers, meeting with them a few at a time over a period of weeks. The purpose of this program was to communicate directly the philosophy that individual officers were expected to stand up and speak their minds on management issues affecting the bank, that people would not be penalized for failing to "adhere to the party line," and that the bank would be a better and stronger institution as a result of such dynamics. It was against this background that the October 26 memorandum was distributed to the officers.

Shortly before October 26, Mutual Bank's president had attended a bankers' trade association function, at which the comment had been made to him that Mutual Bank's 1984 contributions were lagging behind prior years. As a result, the presi-

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dent roughed out a draft of the October 26 memorandum. He ran the draft by the vice-chairman who suggested some revisions, and sent out the final memorandum on October 26 over his own name. He was absolutely unaware of the requirement of 2 U.S.C. § 441b(b)(3)(C) that his memorandum contain a specific statement that the employees had a right to refuse to contribute without any reprisal. The draft memorandum was not discussed with or reviewed by the bank officers ordinarily connected with the ThriftPAC program. It was not drafted and disseminated following procedures which would ordinarily apply to a document addressing a technical or potentially sensitive area.

In using phrases such as the notion that each officer "should--must--consider" it a part of the "position" to contribute and that the response rate to date was "unacceptable," the president was expressing himself in the vigorous and enthusiastic style which he believed would be understood by the officers of the bank in the context of his clear philosophy that each individual officer is expected to stand his or her ground and to express freely his or her differing views. The word "must" was inserted as a stylistic flourish to emphasize the word "should" and was not intended to alter the precatory or exhortative notion of "should" into a mandate. The word "position" (as opposed to "job") was used to place the appeal in the context of one addressed to individuals who by virtue of their office were a part of the banking profession (as opposed to an

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appeal directed to individual employees in relation to their employment by a particular bank). The language was intended as a vigorous appeal to a group of savings bankers -- not as a job-related directive to Mutual Bank employees.⁴ Hind-sight is a great teacher, and in retrospect it is clear that the energetic wording of the October 26 memorandum is certainly open to misconstruction. However, from the author's point of view, the memorandum was absolutely not intended to impose a requirement of a contribution on peril of reprisal.

The response of the bank officers who received the memorandum is instructive. Reactions of officers ranged from amusement at the memo, to anger and upset at its tone, to dismissal of the memorandum as nothing more than a typical over-enthusiastic importunation from the front office intended as a reminder of the campaign. A number of officers regarded the October 26 memorandum as nothing more than a reminder memo and contributed after receiving the memorandum, because they had given in prior years and fully intended to give in 1984. These officers gave not because they were threatened by the memorandum, but because it served as a reminder. Other officers of the bank were sufficiently put off by the tone of the memorandum that they indeed determined not to give to the ThriftPACs

4/ In this regard, it is noteworthy that the October 26 memorandum was addressed only to "All Officers of Mutual Bank," not to the 500-odd employees at large.

at all in 1984. Some of these officers had in fact donated to ThriftPAC in prior years. Indeed, as noted above, the overall 1984 response to the ThriftPACs, even after the October 26 memo, was substantially less than it had been in prior years -- hardly evidence that the bank's officers were intimidated or coerced.

The present F.E.C. proceedings

The October 26 memorandum has been reported in the press, investigated by the Federal Bureau of Investigation, dealt with in a criminal prosecution, and now made the subject of an F.E.C. enforcement action. Under these circumstances, Mutual Bank respectfully submits that, in light of all the circumstances, no further F.E.C. enforcement proceedings are necessary or appropriate.

It is plain from the face of the October 26 memorandum that the document does not contain the advice to employees of their right to decline to contribute without any reprisal as specifically required by 2 U.S.C. § 441b(b)(3)(C). Hence, were it not for the prior resolution of this matter by the U.S. Attorney for the District of Massachusetts, this case would appear to be appropriate for resolution by conciliation under 2 U.S.C. § 437g(4) and (5)(A).⁵ However, after thorough investigation

5/ Disposition under 2 U.S.C. § 437g(5)(B), which deals with "knowing and willful" violations, would be inappropriate because Mr. Willoughby was unaware at the time he wrote the

(Footnote Continued on Next Page)

of the matter by the government, Mutual Bank agreed to a settlement by way of a plea to a criminal information.

Exhibit 8. On March 29, 1985, the bank paid the maximum fine of \$25,000.⁶ Exhibit 9. The U.S. Attorney, after careful evaluation of the entire situation, has formally gone on record that he "views the disposition contained in [the plea agreement] letter as constituting a full and appropriate settlement of all aspects of the matter which is the subject of this information." Exhibit 8, emphasis supplied. I understand that

5/ (Footnote Continued From Previous Page)

October 26 memorandum of the specific requirements of 2 U.S.C. § 441b(b)(3)(C) and the memorandum was not sent with the requisite "... 'defiance,' or 'knowing, conscious, and deliberate flaunting [sic]' of the Act," National Right to Work Committee v. Federal Election Commission, 716 F.2d 1401, 1403 (D.C. Cir. 1983), for a "willful" violation.

6/ The judgment in United States v. Mutual Bank, Crim. No. 85-086 (D. Mass. Mar. 29, 1985), will not bind or collaterally estop either the bank or Mr. Willoughby in any subsequent civil litigation. Cf. Bower v. O'Hara, No. 84-3400 (3d. Cir. Apr. 17, 1985) [53 U.S.L.W. 2541] (guilty plea in assault case not binding in subsequent civil litigation); Wright v. Comm'r of Internal Revenue, Tax Ct. No. 84-41 (Tax Ct. Apr. 8, 1985) [53 U.S.L.W. 2516] (tax crime conviction does not establish fraud for civil purposes). As to the bank, collateral estoppel does not apply because no issue relating to the October 26 memorandum was "actually litigated" in the criminal case, since it was resolved by a plea. Restatement (Second) of Judgments §§ 27, 85 and Comment e to § 27 (1982). With respect to Mr. Willoughby, collateral estoppel does not apply for the additional reason that he was not a party to the criminal case. Id. at §§ 27, 85 and Comment a to § 27. The suggestion in the Footnote on page 2 of the J.E.C. "General Counsel's Factual and Legal Analysis" that Mr. Willoughby was a defendant in the criminal case and admitted guilt therein is not correct.

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past F.E.C. practice has been not to pursue civilly matters which have been disposed of criminally.

The bank and Mr. Willoughby fully recognize that the October 26 memorandum was too strongly worded, and Mr. Willoughby has candidly acknowledged this and expressed his regret over the matter to the bank's employees. In a March 8, 1985 memorandum (Exhibit 10), he wrote:

In retrospect, the wording of the memo was too strong, and I didn't know I was required to include a disclaimer emphasizing that under federal law everyone had a right to refuse to make contributions to the industry-wide political action committee. . . .

* * *

No senior officer of the bank ever knew who contributed and who did not. This policy of confidentiality had been expressed repeatedly to the people addressed by the memo. . . . Senior management of Mutual Bank have always been opposed to any effort to force people to contribute to any campaign, even one as worthy as the United Way. It was certainly not my intention to compel any officer to contribute against his or her principles. To do so would have violated my deepest held beliefs about the moral necessity of respecting such principles.

. . . The Bank's and my personal cooperation [with the federal investigation] was based on the fact that we give total and unqualified support to the spirit and substance of the federal and state election laws that seek to protect employees from being forced on threat of reprisal to contribute to PACs or individual candidates.

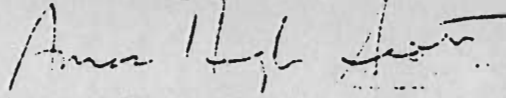
* * *

I hope it goes without saying that I regret that all of this happened, and I'm truly sorry if anybody who received the memo was offended by the tone or, even more, interpreted it as threatening.

Bank policy has always been that contributions should be strictly voluntary. At the time Mr. Willoughby wrote the October 26 memorandum, he did not intend it to be coercive and he was not aware of the requirements of § 441b(b)(3)(C) concerning a non-reprisal statement in the memo.

Under these circumstances, justice has been fully served by the criminal disposition of the matter in U.S. District Court in Boston, and we respectfully submit that the F.E.C. should discontinue the present proceedings.

Sincerely yours,


Amos Hugh Scott

AHS/mlv

Enclosures: Exhibits cited in the text
Statement of Designation of Counsel

April 30, 1982

Dear Fellow Savings Banker:

Massachusetts THRIFTPAC enjoyed moderate success last year, raising \$23,000 in personal contributions from individuals affiliated with 96 savings banks. Clearly, broader participation throughout the savings bank industry would have easily permitted us to meet or exceed our announced goal of \$30,000.

This year is a critical legislative session. The Savings Banks Association is concentrating its legislative efforts on two bills - H 6074, relative to comprehensively revising the banking laws - and - H 2187, providing savings banks corporate tax equality. Passage of these bills are vital to the industry in view of present economic conditions and the continued development of deregulated banking markets.

As part of this ambitious legislative objective, all levels of the savings bank industry are being mobilized statewide to become active legislatively. One method of political involvement is to provide financial support to worthy candidates. Massachusetts THRIFTPAC offers an excellent means for concerned savings bankers to channel their political contributions in the most effective manner. At times requests for political contributions are met with skepticism or hostility. The basic fact is that the costs associated with campaigning and remaining in office are expensive.

All the major industries competing with savings banks, such as the money market funds and commercial banks, have active political action committees whose resources can be used to advance a legislative purpose. Therefore, political campaign contributions must be viewed as a responsibility of all savings bankers who profess concern with the industry's welfare, and not a mere minority who historically was forced to assume a disproportionate burden in this area.

We are striving for 100% participation by savings bankers, which, with the cooperation of chief executive officers, could mean involvement by officers, employees, trustees and corporators. This year more than ever, please use this opportunity to support the savings bank industry's legislative program. The enclosed pamphlet provides background information relative to Massachusetts THRIFTPAC and detailed information on advisory levels of contributions.


-Over-
EXHIBIT 1

Attachment II
(20)

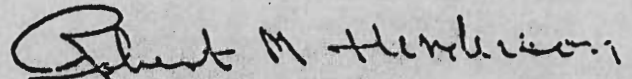
85040553602

Thank you for your anticipated support. Subject to applicable federal tax laws, your contribution may be eligible for a tax credit.

Sincerely,



Elliott G. Carr
Co-Chairman



Robert M. Henderson
Co-Chairman

85040553603

**State law prohibits any corporate candidate campaign contributions, and therefore your Massachusetts THRIFTPAC contributions must represent personal funds.

Attachment II
(21)

8 5 0 4 0 5 5 3 6 0 4

* (Cap. 3)	Robert M. Henderson President Andover Savings Bank	Co-Chairman
	Elliott G. Carr President SEAM	Co-Chairman
	Robert K. Sheridan Vice President and Staff Counsel SEAM	Treasurer
* (Cap. 8)	George P. Adams President Great Barrington Savings Bank	Trustee
* (Cap. 5)	Donald A. Bogle President Fall River Five Cents Savings Bank	Trustee
* (Cap. 1)	Francis P. Brennan President Union Warren Savings Bank	Trustee
* (Cap. 7)	L. Robert Campbell Chairman of the Board Country Bank for Savings	Trustee
* (Cap. 7)	Richard B. Covell President Northampton Institution for Savings	Trustee
* (Cap. 6)	John J. Jackson President Spencer Savings Bank	Trustee
* (Cap. 1)	Robert G. Lee President 1st American Bank for Savings	Trustee
* (Cap. 3)	Charles W. Morse, Jr. President Newburyport Five Cents Savings Bank	Trustee
* (Cap. 2)	Robert B. Nickerson President Winchester Savings Bank	Trustee
* (Cap. 2)	Janet M. Pavliska President Adelphi Five Cents Savings Bank	Trustee
* (Cap. 4)	Charles A. Pearce President Quincy Savings Bank	Trustee
* (Cap. 5)	Donald A. Pope President Attleborough Savings Bank	Trustee
* (Cap. 4)	Lindsay L. Tait President Braintree Savings Bank	Trustee
* (Cap. 6)	C. William Wester President	Trustee

MASSACHUSETTS

THRIFTPAC

MASSACHUSETTS

THRIFTPAC

MASSACHUSETTS

THRIFTPAC

MASSACHUSETTS

THRIFTPAC

What is Massachusetts THRIFTPAC

Massachusetts THRIFTPAC is a multi-candidate political committee established under the provisions of state campaign finance laws, which is not affiliated with any political party nor any particular candidate(s). Contributions may be received from individual savings bankers, including officers, employees, trustees and corporators, and other individuals connected with the savings bank industry. All funds received by Massachusetts THRIFTPAC other than those deducted for administrative expenses will be used as campaign contributions to candidates for state legislative and constitutional offices.

**Contribution policy of
Massachusetts THRIFT PAC?**

The contribution policy and other pertinent affairs of the committee are determined by a Board of Trustees, consisting primarily of savings bankers located regionally throughout the state.

**Are there limits to the amounts which
an individual may contribute to
Massachusetts THRIFT PAC?**

An individual may legally give up to a maximum of \$1,000 in any calendar year. There is no minimum contribution prescribed by law. For general reference and possible guidance in determining your level of contribution, Massachusetts THRIFT PAC expects to raise \$30,000 this upcoming year — an industry-wide contribution level of \$2 per \$1 billion of bank assets would allow Massachusetts THRIFT PAC to more than realize its goal.

**Do any contributions consist in whole
or in part of a savings bank's funds?**

State law prohibits any direct or indirect corporate campaign contributions and therefore contributions to Massachusetts THRIFT PAC must represent the personal, voluntary contributions of individuals.

**Is Massachusetts THRIFT PAC
connected or otherwise affiliated
with NAMS's THRIFT PAC?**

Massachusetts THRIFT PAC is established for elected offices and must, under law, remain separate from NAMS's THRIFT PAC which is established for federal elected offices. The law requires distinct so-called political action committees for federal and state campaign fund raising. Therefore, contributions must be separately made and not commingled, however, Massachusetts THRIFT PAC is attempting to coordinate certain of its activities with NAMS's THRIFT PAC.

As stated above in terms of advisory levels of total contributions, contributions of 70% of the

given to Massachusetts THRIFT PAC and 30% of this amount was given to NAMS's THRIFT PAC, the state PAC would realize its \$30,000 goal and the federal PAC would realize its goal in Massachusetts of \$9,000.

For example, a savings bank having \$200 million in assets following these advisory levels would send \$280 to Massachusetts THRIFT PAC in personal checks and, assuming the requisite solicitation authorization, would make out checks totaling \$120 to NAMS's THRIFT PAC. Massachusetts THRIFT PAC and NAMS's THRIFT PAC have an arrangement wherein savings banker contributions to the federal PAC can be forwarded through Massachusetts THRIFT PAC. However, in such a case it is important and the law requires that separate checks be made out to each PAC. We are strictly prohibited by law from dividing contributions and drawing a check to NAMS THRIFT PAC for federal political contributions.

**How are Massachusetts THRIFT PAC
contributions treated tax-wise?**

Under federal tax laws, such contributions would be eligible for the tax-credit for all state and federal political contributions up to a maximum of \$50 credit individually or a \$100 credit on a joint return. To receive the benefits of the \$100 credit, at least \$200 in political contributions would have to be reported in a joint tax return.

**How are contributions to and from
Massachusetts THRIFT PAC
reported?**

In accordance with state campaign finance laws, all contributions are reported to the Office of Campaign and Political Finance, with contributors giving \$15 or more reported by name. Actual contributions made by Massachusetts THRIFT PAC to individual candidates would be listed by candidates in the name of the committee.

The trustees and officers of Massachusetts THRIFT PAC would be delighted to divulge to interested savings bankers contributing to Massachusetts THRIFT PAC the identity of those candidates on whose behalf campaign contributions are made.

Enclosed is my contribution of _____ for Massachusetts THRIFT PAC. Checks should be made out to Massachusetts THRIFT PAC, and mailed to Massachusetts THRIFT PAC, Room 515, 50 Congress St., Boston, Massachusetts, 02109.

For those who plan or wish to give \$100 or more this year, installments can be arranged.

For operational reasons, Massachusetts THRIFT PAC can only provide installment payments in minimums of \$50. Please check off (✓) desired method: semi-annually () or quarterly () include first installment of \$50 and indicate intended annual contributions _____

Name _____

Home Address _____

Back & Title _____

* You are reminded that state law prohibits corporate campaign contributions.

Attachment # 23

THRIFTPAC

April 5, 1983

Dear Fellow Savings Banker:

Massachusetts THRIFTPAC is the state political action committee for the savings bank industry. During our first two years, a number of savings bankers generously and faithfully supported our efforts. Although we realized some success in raising money for political contributions in terms of the industry's potential, our results could have been much greater.

Despite passage of the comprehensive banking legislation in 1982, there is still the need for further legislation. Without any doubt, savings banks must receive tax equity for our long-term viability. Massachusetts THRIFTPAC offers an excellent opportunity to support this initiative.

Political fund-raising is often times looked upon askance by too many savings bankers. This sentiment ignores the fact that campaigning for and remaining in public office is expensive. Candidates need contributions to be successful.

We are striving for 100% participation by savings bankers. In the past, contributions have been received from chief executive officers, officers, employees, trustees and corporators. Please get involved and make a contribution to Massachusetts THRIFTPAC. In order to achieve our 1983 goal of \$35,000, everyone must give their fair share.

The enclosed brochure provides important background regarding Massachusetts THRIFTPAC, including information on contributions. The brochure also refers to our coordinated activities with the separate federal PAC, NAMS's THRIFTPAC. Subject to applicable federal tax limits, your contribution may be eligible for a tax credit.

Sincerely,

Bernard K. Garceau

Bernard K. Garceau
Chairman

** State law strictly prohibits any corporate political contributions; therefore, your Massachusetts THRIFTPAC contribution must represent personal funds.

MASSACHUSETTS

THRIFTPAC

50 Congress Street Boston MA 02109/(617) 742-7970

May 9, 1984

Dear Fellow Savings Banker:

Massachusetts THRIFTPAC is the state political action committee created by and for the savings bank industry to assist candidates who support our legislative objectives. During our first three years, more than a thousand savings bankers generously and faithfully supported our efforts. Although we realized some limited success in raising money for political contributions, in terms of the industry's potential, our results should have been much greater.

Despite the passage of comprehensive banking legislation in 1982, there are a number of legislative objectives which remain. Without a doubt, savings banks must receive tax parity for continued long-term viability. In order to continue our efforts on the tax parity bill and other progressive banking legislation, Massachusetts THRIFTPAC needs the total support of all interested savings bankers.

Political fund raising is oftentimes looked upon negatively by too many savings bankers. This sentiment ignores the fact that campaigning for and remaining in public office is expensive. Candidates who support our industry need contributions to be successful.

During this year's effort, we are striving for 100% participation by savings bankers. In the past, contributions have been received from chief executive officers, officers, employees, trustees and corporators. Please get involved and make a contribution to Massachusetts THRIFTPAC. To achieve our 1984 goal of \$35,000, everyone must give their fair share.

The enclosed brochure provides important background regarding Massachusetts THRIFTPAC, including information on contributions. The brochure also refers to our coordinated activities with the separate federal PAC, NCSI's THRIFTPAC. Subject to applicable federal tax limits, your contribution may be eligible for a tax credit.

Sincerely,

Janet M. Pavliska

Janet M. Pavliska
Chairman

Attachment II
(25)

** State law strictly prohibits any corporate political contributions; therefore, your Massachusetts THRIFTPAC contribution must represent personal funds.

85040553607

Massachusetts THRIFTPAC?

The contribution policy and other pertinent affairs of the committee are determined by a Board of Trustees, consisting primarily of savings bankers representing the various regions of the state.

Are there limits to the amounts which an individual may contribute to Massachusetts THRIFTPAC?

An individual may legally give up to a maximum of \$1,000 in any calendar year. Contributions may be received from individual savings bankers, including officers, employees, trustees and collaborators, and other individuals connected with the savings bank industry. For general reference and possible guidance in determining your level of contribution, Massachusetts THRIFTPAC hopes to raise \$35,000 this upcoming year. An industry-wide contribution level of \$2 per \$1 million of bank assets would allow Massachusetts THRIFTPAC to more than realize its goal.

May contributions consist in whole or in part of a savings bank's funds?

No. State law prohibits any direct or indirect corporate campaign contributions. Therefore, all contributions to Massachusetts THRIFTPAC must represent the personal, voluntary contributions of individuals.

How does Massachusetts THRIFTPAC differ from NCSI THRIFTPAC?

Massachusetts THRIFTPAC was established for state elected offices and must, under law, remain separate from NCSI's THRIFTPAC which was established for federal elected offices. The law requires separate political action committees for federal and state campaign fund raising. Therefore, contributions must be separately made out and not commingled. However, Massachusetts THRIFTPAC does coordinate certain of its activities with NCSI's THRIFTPAC.

As stated above in terms of advisory levels of

were given to Massachusetts THRIFTPAC and 30% of this amount were given to NCSI's THRIFTPAC, the state PAC would realize its \$35,000 goal and the federal PAC would realize its goal in Massachusetts of \$10,000.

For example, individuals affiliated with a savings bank having \$200 million in assets following these advisory levels would send \$280 to Massachusetts THRIFTPAC in personal checks and, assuming the requisite authorization has been provided, would make out checks totaling \$120 to NCSI's THRIFTPAC. Massachusetts THRIFTPAC and NCSI's THRIFTPAC have an arrangement wherein savings banker contributions to the federal PAC can be forwarded through Massachusetts THRIFTPAC. In such a case it is important and the law requires that separate checks be made out to each PAC. We are strictly prohibited by law from dividing contributions and drawing a check to NCSI THRIFTPAC for federal political contributions.

How are Massachusetts THRIFTPAC contributions treated tax-wise?

Under federal tax laws, such contributions are eligible for the tax credit for all state and federal political contributions up to a maximum of \$50 credit individually or a \$100 credit on a joint return. To receive the benefits of the \$100 credit, at least \$200 in political contributions have to be reported in a joint tax return.

How are contributions to and from Massachusetts THRIFTPAC reported?

In accordance with state campaign finance laws, all contributions are reported to the Office of Campaign and Political Finance, with contributors giving \$15 or more reported by name. Actual contributions made by Massachusetts THRIFTPAC to individual candidates will be listed by candidates in the name of the committee.

The trustees and officers of Massachusetts THRIFTPAC would be delighted to provide to any interested savings bankers contributing to Massachusetts THRIFTPAC the names of candidates who have received contributions.

Enclosed is my contribution of _____ for Massachusetts THRIFTPAC.

Checks should be made out to Massachusetts THRIFTPAC, and mailed to

Massachusetts THRIFTPAC, Room 515, 50 Congress St., Boston, Massachusetts, 02109.

All contributions must be accompanied by a complete listing of the individual contributors' home addresses.

Name _____

Home Address _____

Business & Title _____

Attachment II
(26)

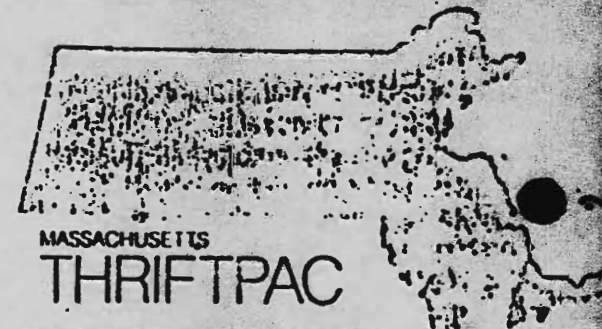
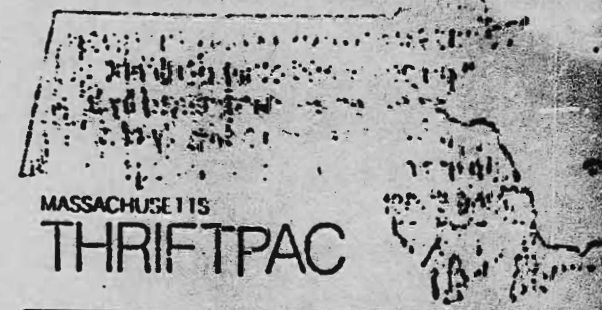
*You are reminded that state law prohibits corporate campaign contributions.

EXHIBIT 5

Board of Trustees

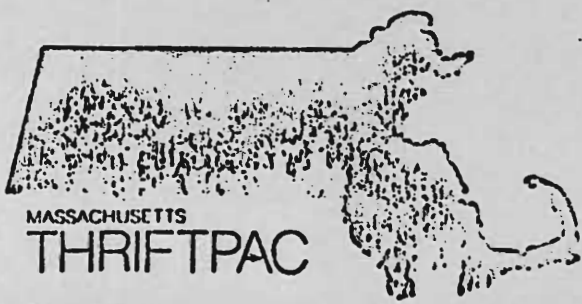
*(Grp. 2)	Janet M. Pavliska President Arlington Five Cents Savings Bank	Chairman
	Robert K. Sheridan President SBAM	Treasurer
	Kevin F. Kiley Director of Legislative and Regulatory Affairs SBAM	Assistant Treasurer
*(Grp. 8)	George P. Adams President Great Barrington Savings Bank	Trustee
*(Grp. 1)	Francis P. Brennan Chairman Union Warren Savings Bank	Trustee
*(Grp. 6)	Harold Cabot President Worcester County Institution for Savings	Trustee
*(Grp. 5)	Timothy J. Cotter President Fall River Five Cents Savings Bank	Trustee
*(Grp. 7)	Richard B. Covell President Northampton Institution for Savings	Trustee
*(Grp. 4)	Donald R. Eldridge President Abington Savings Bank	Trustee
*(Grp. 3)	Peter A. Hesse President Beverly Savings Bank	Trustee
*(Grp. 6)	John J. Jackson President Spencer Savings Bank	Trustee
*(Grp. 7)	William A. James President Springfield Institution for Savings	Trustee
*(Grp. 1)	Robert G. Lee President 1st American Bank for Savings	Trustee
*(Grp. 2)	Robert B. Nickerson President Winchester Savings Bank	Trustee
*(Grp. 2)	Thomas F. O'Connor President Medford Savings Bank	Trustee
*(Grp. 4)	Charles A. Pearce Chairman Quincy Savings Bank	Trustee
*(Grp. 5)	Donald A. Pope President Attleborough Savings Bank	Trustee
*(Grp. 3)	Robert H. Studley Chairman Falmouth Savings Bank	Trustee

*Represents SBAM Geographic Group.



What is Massachusetts THRIFTPAC and why is it important?

Massachusetts THRIFTPAC is a multi-candidate political committee established under the provisions of state campaign finance laws. It is not affiliated with any political party nor any particular candidate or candidates. The concerns of the savings bank industry must be represented at all levels of government in order to affect those political decisions which could have the most dramatic impact on the future of our industry. Massachusetts THRIFTPAC, by combining the resources of hundreds of savings bankers, gives our industry a more effective voice in the political process.



MEMORANDUM No. 307-84

TO: All Officers

RE: NCSI and SBAM THRIFTPACs

In this election year particularly, our support of candidates favorable to banking interests will be of crucial importance. If the political action committees established by the National and State Associations are to be effective, however, they need the help of all savings bankers.

We encourage you to support these committees and ask that 70% of your contribution be made to "Massachusetts THRIFTPAC" and 30% to "THRIFTPAC" (separate checks, please). A brochure from Massachusetts THRIFTPAC is enclosed and includes a contribution form for your use. No form is necessary for NCSI THRIFTPAC.

Your entire contribution should be forwarded to Dave Donald, who will act as coordinator for Mutual Bank. Names of contributors will be kept confidential.

If you have any question on either of these political action committees, please do not hesitate to contact one of us.

Thank you for your anticipated response to this important effort.

Keith G. Willoughby
Keith G. Willoughby

Gerald T. Mulligan
Gerald T. Mulligan

8/15/84

EXHIBIT 6

Attachment II
(28)

95040553610

Memorandum No. 429-84

To: All Officers of Mutual Bank
From: Keith G. Willoughby
Date: October 26, 1984

Several months ago, all of you received an appeal for contributions to the state and national political action committees of our industry. This week I learned that Mutual Bank officers have failed by a substantial margin to reach the goal on either, and in the case of the national Thriftpac, have not even reached the half-way mark. Even worse, only nineteen of the fifty-nine officers in the bank have contributed.

That is unacceptable. All of you are fully aware of the importance to this bank of the issues being voted on this year, particularly the state tax and the Central Fund dividend and, I hope none of you is so naive as to think that political contributions--even those from PAC's, despite all of the pious rhetoric--do not play a vital part in the progress of such matters. You must also know how active Gerry Mulligan and I have been in this area. Even if you give substantially to individual candidates, as Gerry and I do, you should, as officers of this bank, all support the PAC's.

Every single officer of this institution should--must--consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac. Please send your checks, not later than next Friday, to Dave Donald to be forwarded.



U.S. Department of Justice
United States Attorney
District of Massachusetts

1107 J.W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

March 6, 1985

Amos Hugh Scott, Esq.
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

Dear Mr. Scott:

I am writing to confirm our agreement of today concerning matters pertaining to Mutual Bank, fsb.

The United States, by and through its undersigned attorneys, and Mutual Bank, fsb, by and through its undersigned attorney and Chairman of the Board of Directors, hereby enter into the following agreements:

(1) Mutual Bank, fsb, agrees to plead guilty to a one count Information (copy attached) charging it with violation of Title 2 U.S.C. §§441b(b)(3)(C) and 437g(d).

(2) The United States agrees to recommend to the sentencing judge a \$17,000 fine as the appropriate sentence against Mutual Bank on this matter.

(3) The United States agrees to bring no criminal charges, other than the present Information, against Mutual Bank or its trustees, officers, employees and agents on account of any violations of Title 2 of the United States Code regarding the solicitation of contributions for bank industry political action committees, or based upon any matter which was the subject of the investigation leading to the present Information, all through the date of this agreement.

(4) The United States Attorney views the disposition contained in this letter as constituting a full and appropriate settlement of all aspects of the matter which is the subject of this Information.

The above constitutes the entire agreement between the parties. No additional agreements exist, and no further agreements will exist unless agreed to in writing.

Sincerely,

William F. Weld

WILLIAM F. WELD
United States Attorney

Daniel I. Small

DANIEL I. SMALL
Assistant U.S. Attorney

Agreed to for Mutual Bank, fsb:

Date: March 6, 1985

Keith G. Willoughby
Keith G. Willoughby
Chairman of the Board and
President

Date: March 6, 1985

Amos Hugh Scott
Amos Hugh Scott
Counsel for Mutual Bank, fsb

85040553613

Attachment II
(31)

DEFENDANT

MUTUAL BANK, fsb

DISTRICT OF MASSACHUSETTS

DOCKET NO

85-00086

JUDGMENT AND PROBATION COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date _____

MONTH

3

29

8

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSELAmos Hugh Scott, Esquire

(Name of Counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea,☐ NOLO CONTENDERE,☐ NOT GUILTY

FINDING & JUDGMENT

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of violating the Federal Election Campaign Act, i. e., knowingly and willfully soliciting contributions to Thriftpac from employees without informing said employees, at the time of the solicitation, of their right to refuse to make the contribution thus solicited without fear of any reprisal, all in violation of Title 2, United States Code, Sections 441b(b) (3) (C) and 437g(d).

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: ~~He be imprisoned in the House of Correction for the period of 180 days.~~

A fine of twenty-five thousand dollars (\$25,000.00)

is to be paid forthwith.

SENTENCE OR PROBATION ORDER

SPECIAL CONDITIONS OF PROBATION

ADDITIONAL CONDITIONS OF PROBATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or extend the period of probation, at any time during the probation period or within a maximum probation period of five years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

COMMITMENT RECOMMENDATION

The court orders commitment to the custody of the Attorney General and recommends:

It is ordered that the Clerk file a certified copy of this judgment and commit to the custody of the Attorney General.

CERTIFIED TO AS A

THIS DATE March 29, 1985By Richard A. Kane

Attachment II

32

EXHIBIT 900 3/29/85

March 8, 1985

MEMORANDUM No. 111-85

TO ALL EMPLOYEES

I think we can all agree that in recent weeks the Boston banker's lot has not been a happy one.

But, I am happy to share with you the fact that a conclusion has been reached in the U. S. Attorney's investigation of my October 26, 1984 memo to Mutual Bank officers on the subject of PACs.

In brief, common sense led us to accept the settlement proposed by the U. S. Attorney's office. We are awaiting the federal court's final disposition of this matter which we anticipate will occur next week.

In retrospect, the wording of the memo was too strong, and I didn't know I was required to include a disclaimer emphasizing that under federal law everyone had a right to refuse to make contributions to the industry-wide political action committee. Had I known, I would have put it in. It was the absence of such a disclaimer that led the government to suspect that the memo may have been written with a purpose other than I intended.

Nothing could be further from the truth.

As you know, the recent past has been an extremely difficult period for the thrift industry. It has been only through an enormous amount of hard work that we have been able to persuade national and state lawmakers to change the regulations that were denying our customers the opportunity to get a market return on their deposits and competitive services they were entitled to expect. It was -- and is -- my view that we in the industry have a continuing obligation to our customers to see that thrift interests are effectively expressed at the state and national level. That is precisely what the industry PACs were organized to do, in a completely open manner. Again, the sole purpose of the October 26th memo was to strongly urge the officers of the Bank to consider supporting the PAC's work.

No senior officer of the bank ever knew who contributed and who did not. This policy of confidentiality had been expressed repeatedly to the people addressed by the memo. Some others, outside the bank, refused to believe that. Instead, the news focused entirely on a tone of the memo, which admittedly was strong. In part, this forcefulness was justified in my mind because of the very anonymity and confidentiality of the process here at Mutual Bank. Senior management of Mutual Bank have always been opposed to any effort to force people to contribute to any campaign, even one as worthy as the United Way. It was certainly not my intention to compel any officer to contribute against his or her principles. To do so would have violated my deepest held beliefs about the moral necessity of respecting such principles.

You should know that the Bank and I personally cooperated with the investigation to the fullest extent at all times because we had absolutely nothing to hide. Furthermore, the Bank's and my personal cooperation was based on the fact that we give total and unqualified support to the spirit and substance of the federal and state election laws that seek to protect employees from being forced on threat of reprisal to contribute to PACs or individual candidates.

(over)

EXHIBIT 10

Attachment II
32

Any way you look at it, I have to be counted as a big part as a fundraiser. A number of officers totally ignored my appeal, and those who did contribute, gave an average \$7.40 each to the federal PAC. Rodney Dangerfield gets more respect than that.

I hope it goes without saying that I regret that all of this happened, and I'm truly sorry if anybody who received the memo was offended by the tone or, even more, interpreted it as threatening.

It is behind us now. Mutual Bank has come a long way in the past few years, and is exceptionally well positioned for the future. Let's all focus on that future in the spirit of openness and mutual respect which we should all strive to maintain throughout all levels of the Bank.

Keith G. Willoughby

KGW:lc

85040553616

Attachment II

38

CHOATE, HALL & STEWART

EXCHANGE PLACE

53 STATE STREET

BOSTON, MASSACHUSETTS 02109

TELEPHONE (617) 257-5080

TELECOPIER (617) 257-7586

TELEX 289374

CHARLES F. CHOATE
85 JUN 20 1985 02
RALPH A. STEWART
1904-1985

June 18, 1985

George Demougeot, Esquire
General Counsel's Office
Federal Election Commission
Washington, D.C. 20463

85 JUN 20 1985 10:55
GENERAL COUNSEL

Re: Matter Concerning Mutual Bank, MUR 1998

Dear Mr. Demougeot:

This letter will follow up on our conversation of June 12, in which I telephoned you to inquire concerning the response to our letter of May 24, 1985 about the referenced matter.

You indicated that, having received our letter, the General Counsel's investigation was, for all practical purposes, concluded and that you were in the process of preparing a brief to the Commission, recommending a finding of probable cause to conclude that a violation had occurred. You further indicated that the procedural avenues open to us at this point were either to request pre-probable cause conciliation or to allow the probable cause process to go forward and submit our response in due course. I indicated that I would discuss the situation with the Bank and get back to you.

My initial letter to you urged that no further proceedings by the Federal Election Commission were warranted concerning this situation because of the previous criminal disposition entered into with the United States Attorney here in Boston. The PAC solicitation memorandum in question dated October 26, 1984 plainly did not contain the specific language required by 2 U.S.C. § 441b (b)(3)(C) informing employees of their right not to contribute to the PAC without reprisal. Hence, it is virtually self-evident that the memorandum constituted a non-willful violation of the Federal Election Campaign Act cognizable under 2 U.S.C. § 437g(a)(5)(A). The thrust of my May 24 letter was not to dispute the existence of such a technical violation but rather to address the equities of proceeding with civil enforcement action in view of the prior criminal disposition of the case.

Attachment III
(35)

85040553617

June 18, 1985

Regardless of whether probable cause exists, your office and the Commission plainly retain discretion to determine on the basis of fairness, equity and the public interest not to proceed in a particular situation. The Federal Election Campaign Act clearly recognizes that, in the criminal enforcement context, a court is to take into consideration a prior civil disposition of a matter. 2 U.S.C. § 437g(d)(3). In the obverse situation, namely that of civil enforcement, it certainly must be true that the existence of a prior criminal disposition should weigh heavily in determining the FEC's actions.

Indeed, based on discussions with the Department of Justice here in Boston, both concurrent with the criminal disposition of the Mutual Bank matter back in March and then subsequent to my telephone conversation with you last Wednesday, I understand that the position within the FEC general counsel's office is that, when a matter has been appropriately disposed of in criminal forum, civil proceedings are frequently deemed unnecessary. As I pointed out to you in my letter of May 24, William Weld, the United States Attorney for the District of Massachusetts, has indicated in this case that his office regards the criminal disposition as "full and appropriate settlement of all aspects of the matter," which was thoroughly investigated by his office.

My point is twofold: First, in view of the circumstances in this matter -- including the solid background of the Bank as an outstanding corporate citizen in the Boston community,* the fact that the violation was an isolated one, the fact that no employees were actually threatened or penalized concerning contributions, and the fact that the Bank has accepted full responsibility for the violation, has admitted its culpability in court, and has expressed regret to its employees -- the public interest has already been fully vindicated and fairness and equity dictate no further proceedings against the Bank. Second, as general counsel to the FEC, your office has the discretion to recommend, and the Commission has the discretion to determine that no further proceedings are warranted.

After discussing the situation with the Bank, I respectfully request that we be given the opportunity to meet with General Counsel Charles Steele and you and any other appropriate members of your staff in Washington in order to argue further our case that your office recommend no action to the Commission. I will be leaving the country on June 19 and will not be back in the office until after the 4th of July weekend, and I would be available to meet with you at some point later in July. In the interim I request that you either grant or seek from the Commission a stay of proceedings until we can discuss this matter further.

* /

In order to provide you with information about the background of Mutual Bank and, specifically, its community-oriented programs and involvement, please find enclosed a "Corporate History."

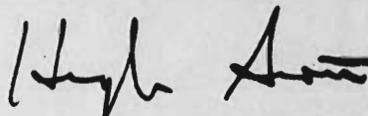
Attachment III
(36)

June 18, 1985

Finally, I request that you bring this matter and our request for a meeting to the attention of Mr. Steele, the General Counsel.

Mutual Bank and I have endeavored to respond promptly and fully to your inquiry concerning this matter, and when I return to the office in July, I will promptly address it again. In the interim, I would appreciate your respecting my absence from the country by not proceeding with matters during that time. Thank you for your courtesy on the telephone last Wednesday.

Sincerely yours,



Amos Hugh Scott

AHS/mlv
Enclosure

Attachment III
(37)

85040553619

CORPORATE HISTORY

Mutual Bank fsb

Mutual Bank fsb is a mutual savings bank operating under a federal charter granted by the Federal Home Loan Bank Board. The United States Supreme Court has defined a mutual savings bank as follows:

An institution in the hands of disinterested persons, the profits of which, after deducting the necessary expenses of conducting the business, inure wholly to the benefit of the depositors, in dividends or in a reserved surplus for their greater security.

A copy of Mutual Bank's charter is attached as Exhibit A.

Earnings from investments made by Mutual Bank (after deduction of expenses, taxes, and reserve funds required for the Members' protection) are for the benefit of Members and are paid to them as dividends.

Mutual Bank provides its depositors and customers a wide range of banking services, including NOW accounts, savings accounts, term and certificate deposits, home mortgage loans, consumer loans, small business and commercial loans, retirement accounts, and brokerage services.

Mutual Bank serves customers in the greater Boston area, from downtown Boston to Stoneham in the north, Framingham on the west, and Stoughton on the south. The bank's main office is located at 45 Franklin Street, Boston, and it has 21 branch offices throughout the greater Boston area, as listed in the "Statement of Condition, December 31, 1984," Exhibit B hereto.

Corporate governance and employees

As a mutual savings bank, Mutual Bank has no stockholders. All depositors are considered Members of the bank, and it is run solely for the benefit of the Members and the communities it serves. The bank is governed by a Board of Trustees, elected by the Members, which meets quarterly, and directed by an Executive Committee of Trustees, which meets bi-weekly. The twenty-eight Trustees, including the seven members of the Executive Committee, as of February 26, 1985 are listed in the "Statement of Condition, December 31, 1984," Exhibit B hereto.

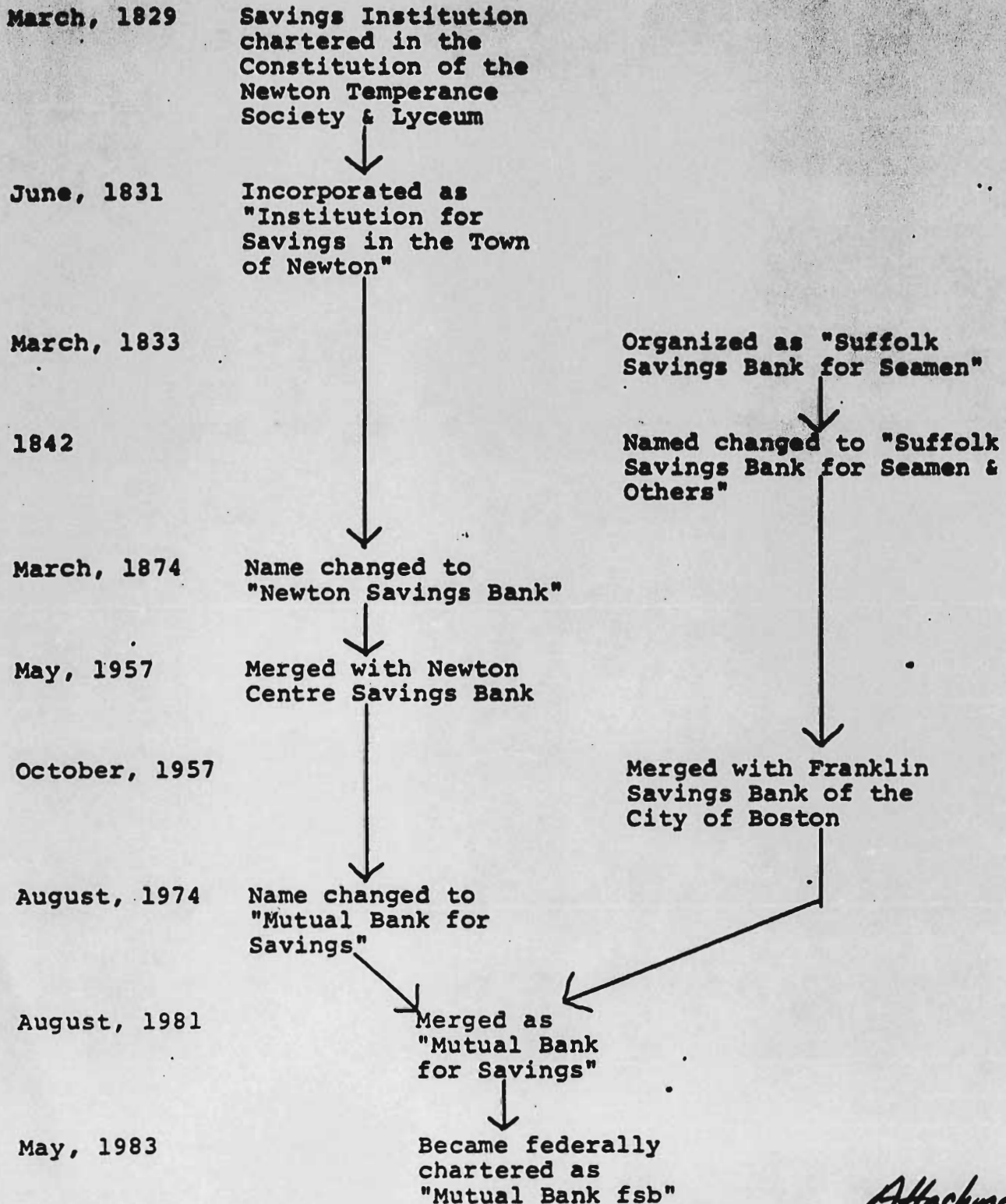
As of February 26, 1985, the bank had 450 officers and employees, broken down as follows: 65 officers (whose names are listed in the "Statement of Condition, December 31, 1984," Exhibit B hereto); 310 full-time, non-officer employees; and 75 part-time, non-officer employees.

Attachment III
(38)

85040553620

Corporate history

Mutual Bank fsb resulted from the merger in mid-1981 of the Mutual Bank for Savings and the Suffolk Franklin Savings Bank. It became chartered as a federal savings bank in May of 1983. A brief outline of its corporate history follows:



Attachment III
3

Financial condition

Highlights of Mutual Bank's financial condition as of year end 1984 and 1983 are as follows:

Year ending December 31,

	<u>1984</u>	<u>1983</u>
	(in thousands)	
Deposits	\$1,174,368	\$1,132,040
Mortgage Loans	670,120	647,626
Total retained earnings	63,825	65,628
Net <u>loss</u> before extraordinary credit	(2,143)	(2,353)

A copy of the bank's "Consolidated Financial Statements, December 31, 1984 and 1983" is Exhibit C hereto.

Bank's mission

Mutual Bank's mission is to provide a broad range of banking and financial services to its customers and to earn a reasonable profit for doing so. This represents the bank's best, long-term, means to fulfill its concept of corporate responsibility to its depositors, other customers, the communities it serves and its employees. It is, therefore, the bank's goal to provide:

1. quality service and products that are competitively priced so that its customers desire a continued relationship with the bank and become a resource for development of new business;
2. social and economic leadership to the communities the bank serves including support for long-term development and job-creating activities to the highest degree possible, consistent with the bank's need to generate an adequate return on its investment;
3. reasonable profits and growth relative to the bank's efforts, industry and markets; and
4. fair compensation, good working conditions, and career development opportunities for each of the bank's employees.

Implementation of the bank's mission

During the last decade, Mutual Bank's officers have been leaders in the effort to amend banking laws so that thrift institutions may offer a wider range of competitive services to depositors and consumers, and the bank has actively taken advantage of new opportunities to expand such services. Hence, the bank has come to offer (for example) NOW accounts, retirement accounts, variable rate deposit accounts, and brokerage services.

On the lending side, Mutual Bank during the last decade has demonstrated a strong commitment to residential mortgage lending: roughly 53% of its assets were in mortgage loans at the end of 1984. The bank has given particular support by its lending policies to urban neighborhood redevelopment projects by individual owners, owner-occupants, and small-scale community-based developers. These efforts have been in areas such as Dorchester, Hyde Park, Fields Corner, Columbia/Savin Hill and the Fenway, areas which, although they do not represent the deposit base of Mutual Bank, have in the past been the victims of the reluctance by some banks to invest in community redevelopment.

In addition to its ordinary banking activities, Mutual Bank has engaged in a number of unique community-oriented programs, including:

a. Mutual Bank Foundation

For years prior to their merger in mid-1981, both Mutual Bank for Savings and Suffolk Franklin Savings Bank had engaged in annual contribution programs to charitable, civic, cultural and educational organizations. Shortly after their merger, the Mutual Bank Foundation was created as a trust in November 1981, to make grants to charitable organizations. Despite the bank's operating losses throughout the period, funding to date has been given exclusively by Mutual Bank, as follows:

11/81 - 10/82	\$52,600
11/82 - 12/83	57,500
1984	57,500

In the future, the trustees will welcome contributions from other interested parties. The Foundation supports those programs which improve the quality of life of neighborhoods and communities and promote the ability of people to work. Priority is given to those programs which serve communities in which the bank has branches and/or significant investments. Organizations receiving support from Mutual Bank Foundation in 1984 are listed in its "Financial Statement, December 31, 1984," Exhibit D hereto.

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b. Mutual Bank Revolving Loan Fund

Mutual Bank's Revolving Loan Fund is an outgrowth of its contributions policy. It became clear that there was a need to help solve relatively short-term immediate financial problems of community groups that did not fall under the bank's traditional financing methods. Hence, the Revolving Loan Fund was established in 1980 to assist community groups that were unable to obtain short-term financing under traditional lending criteria. The loans are usually repayable within one year and are written at below-market interest rates. Having an established revolving loan fund enables the bank to respond quickly, which is the most important element since the community group is often facing an immediate problem. Funds extended are generally not substantial, but the problem-solving capability of the fund is. Since 1980, the Fund has loaned over \$160,000 to:

Columbia/Savin Hill Neighborhood Housing Services, Inc., Dorchester,
Dorchester Bay Economic Development Corp., Dorchester,
Dorchester Gardenlands, Dorchester,
Federated Dorchester Neighborhood Houses, Inc., Dorchester,
Fields Corner Community Development Corp., Dorchester,
Growthways, Inc., Newton and Holbrook,
Historic Newton, Inc., Newton,
Hyde Park Development Corp., Hyde Park,
Living in Dorchester, Inc., Dorchester,
Mason-Rice P.T.A., Newton,
New Cornerstone Baptist Church, Mattapan,
Symphony Area Renaissance, Inc., Boston,
Village Pre-School, Inc., Roslindale and
We can Neighborhood Improvement Association, Roxbury.

c. Interest Reduction Payment Program

The bank has agreed to grant home improvement loans to owners of properties in targeted neighborhoods of Boston under a special subsidized interest-reduction loan program funded by a Community Development Block Grant from H.U.D. and administered by the City of Boston, Mayor's Office of Housing. Under the terms of the agreement, Mutual Bank will grant FHA Title I property improvement loans at a rate 1% below the prevailing market rate. The loan proceeds combined with the Block Grant can reduce the cost of borrowing significantly.

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d. Neighborhood Housing Services, Inc. (NHS)

NHS is an organization of area residents, bankers, and city officials dedicated to improving existing housing stock in Boston. NHS is presently committed to the Columbia-Savin Hill, Mission Hill and Mt. Bowdoin-Glenway sections of Boston. Mutual Bank has been a contributor to NHS to help defray its operating costs and has committed to make mortgage loans on properties rehabilitated under NHS's supervision. The bank has representation on the NHS Board of Directors.

e. Boston Housing Partnership

The Boston Housing Partnership was organized to rehabilitate approximately 800 deteriorated and vacant housing units within the City of Boston and to make the rehabilitated properties available to low and moderate income residents. Mutual Bank provides financial support to the partnership, and the bank's president is a member of the BHP Board of Directors.

f. Massachusetts Mortgage Review Board

Mutual Bank participates in this voluntary program whereby denied mortgage applications are eligible for review by independent boards composed of community representatives and bankers. The purpose of the program is to ensure the ability of mortgage credit without discrimination on the basis of neighborhood or location.

g. Massachusetts Business Development Corporation (MBDC)

Mutual Bank has been involved for many years with MBDC, a venture which lends the pooled capital of the state's banks and insurance companies to small businesses. This program has been responsible for the creation or maintenance of several thousands of jobs in the Commonwealth.

h. Education Loans

Mutual Bank continues to be one of the leading lenders in the Student Loan Program in Massachusetts. In 1983, the bank granted over 2,300 student loans totaling over \$6 million.

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i. Tri-Lateral Council/Madison Park High School

Mutual Bank is a business partner with Madison Park High School through the Tri-Lateral Council for Quality Education. The bank provides job interview workshops for parents, as well as summer jobs for students. Mutual Bank staff members help to prepare students for careers in the business world through participation in career days and job readiness workshops at Madison Park High School. Mutual Bank's Foundation provides a scholarship to a Madison Park student and supports a program to acquaint students and parents with Home Base, an alternative education program at Madison Park High School.

j. Humphrey Occupational Resource Center

Mutual Bank is represented on the Banking Advisory Council for the Humphrey Occupational Resource Center, a skills training school opened in September 1980, to prepare Boston Public School students for entry level and long-range employment.

k. Officer/employee community involvement

Mutual Bank encourages its officers and employees to participate as members, volunteers, officers and directors involved with civic, social, cultural, business and professional organizations. Such participation provides a valuable link between the bank and the community it serves. The bank regularly accomodates participation by its officers and employees in such activities during regular working hours. As of March 1, 1985, 37 officers and employees reported affiliations or activities with over 100 organizations.



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Amos Hugh Scott, Esquire
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, Massachusetts 02109

Re: MUR 1998
Mutual Bank
Keith G. Willoughby

Dear Mr. Scott:

On May 8, 1985, the Commission found reason to believe that your clients had violated 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act") in connection with the above referenced MUR. However, after considering the circumstances of this matter, on 1985, the Commission determined to take no further action and close its file.

The file in this matter will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within 10 days.

If you have any questions, please direct them to George Demougeot, the staff member assigned to this matter at (202) 523-4000.

Sincerely,

Attachment IV
(45)

185040553627

SENSITIVE



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: The Commission

FROM: Charles N. Steele
General Counsel

BY: Kenneth A. Gross
Associate General Counsel *KAG*

SUBJECT: Withdrawal of General Counsel's Report
MUR # 1998
Respondents: Mutual Bank and
Keith G. Willoughby, as President
of Mutual Bank

85 AUG 28 P 5:13

RECEIVED
OFFICE OF THE
COMMISSION SECRETARY

The Office of General Counsel withdraws the General Counsel's Report in MUR 1998, because of a factual misstatement. A corrected version is being recirculated.

85040353628



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DGC Decker
SENSITIVE

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TO: The Commission

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General Counsel

BY: Kenneth A. Gross
Associate General Counsel *KAG*

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85040553629



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary
FROM: Office of General Counsel *rd*
DATE: August 29, 1985
SUBJECT: MUR 1998 - Memo to the Commission to Withdraw

The attached is submitted as an Agenda document
for the Commission Meeting of _____
Open Session _____
Closed Session _____

CIRCULATIONS

48 Hour Tally Vote	<input checked="" type="checkbox"/>
Sensitive	<input checked="" type="checkbox"/>
Non-Sensitive	<input type="checkbox"/>
24 Hour No Objection	<input type="checkbox"/>
Sensitive	<input type="checkbox"/>
Non-Sensitive	<input type="checkbox"/>
Information	<input type="checkbox"/>
Sensitive	<input type="checkbox"/>
Non-Sensitive	<input type="checkbox"/>
Other	<input type="checkbox"/>

DISTRIBUTION

Compliance	<input checked="" type="checkbox"/>
Audit Matters	<input type="checkbox"/>
Litigation	<input type="checkbox"/>
Closed MUR Letters	<input type="checkbox"/>
Status Sheets	<input type="checkbox"/>
Advisory Opinions	<input type="checkbox"/>
Other (see distribution below)	<input type="checkbox"/>

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 1, 1985

Amos Hugh Scott, Esquire
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, Massachusetts 02109

RE: MUR 1998
Mutual Bank
Keith G. Willoughby

Dear Mr. Scott:

This is in reference to your letter dated June 18, 1985, requesting a stay of proceedings until after the 4th of July weekend. The Commission does not grant stays of proceedings. However, we will delay mailing out briefs in this matter until after July 8, 1985. At that time, please contact George Demougeot, the staff member handling this matter, at (202) 523-4000, to discuss this case further.

Sincerely,

Charles N. Steele
General Counsel

By: 
Kenneth A. Gross
Associate General Counsel

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RECEIVED AT THE FCC

CHARLES R. CHOATE, JR.

85 JUN 20 1985

RALPH A. STEWART
1204-3225

CHOATE, HALL & STEWART

EXCHANGE PLACE

53 STATE STREET

BOSTON, MASSACHUSETTS 02109

TELEPHONE (617) 557-0000

TELECOPIED (617) 557-1900

TELEX 220000

June 18, 1985

George Demougeot, Esquire
General Counsel's Office
Federal Election Commission
Washington, D.C. 20463

Re: Matter Concerning Mutual Bank, MUR 1998

Dear Mr. Demougeot:

This letter will follow up on our conversation of June 12, in which I telephoned you to inquire concerning the response to our letter of May 24, 1985 about the referenced matter.

You indicated that, having received our letter, the General Counsel's investigation was, for all practical purposes, concluded and that you were in the process of preparing a brief to the Commission, recommending a finding of probable cause to conclude that a violation had occurred. You further indicated that the procedural avenues open to us at this point were either to request pre-probable cause conciliation or to allow the probable cause process to go forward and submit our response in due course. I indicated that I would discuss the situation with the Bank and get back to you.

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RECEIVED
OFFICE OF THE
GENERAL COUNSEL

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June 18, 1985

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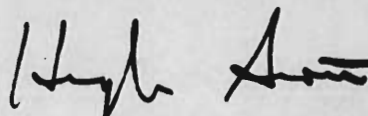
8504053633

June 18, 1985

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Mutual Bank and I have endeavored to respond promptly and fully to your inquiry concerning this matter, and when I return to the office in July, I will promptly address it again. In the interim, I would appreciate your respecting my absence from the country by not proceeding with matters during that time. Thank you for your courtesy on the telephone last Wednesday.

Sincerely yours,



Amos Hugh Scott

AHS/mlv
Enclosure

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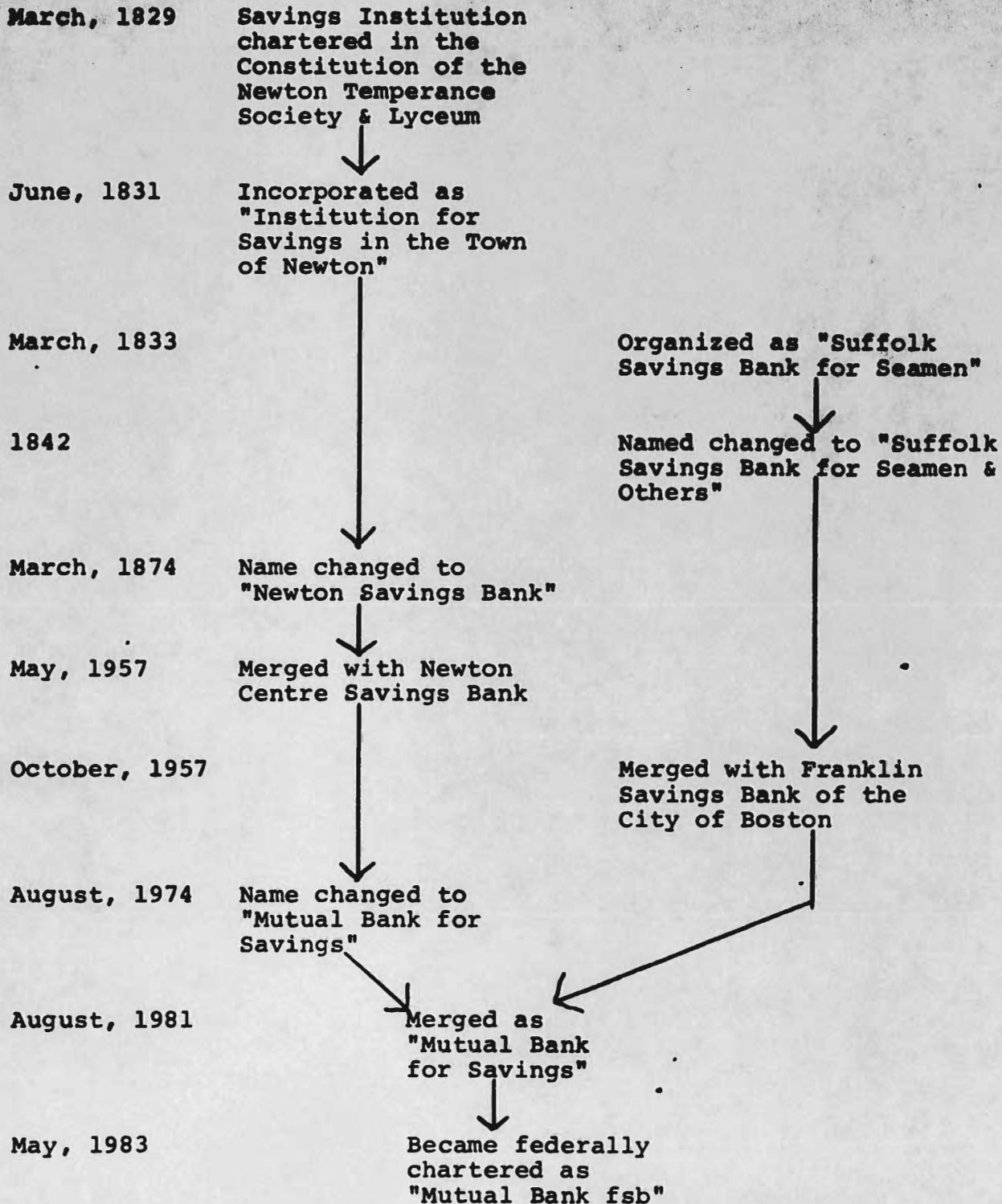
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Corporate history

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Symphony Area Renaissance, Inc., Boston,
Village Pre-School, Inc., Roslindale and
We can Neighborhood Improvement Association, Roxbury.

c. Interest Reduction Payment Program

The bank has agreed to grant home improvement loans to owners of properties in targeted neighborhoods of Boston under a special subsidized interest-reduction loan program funded by a Community Development Block Grant from H.U.D. and administered by the City of Boston, Mayor's Office of Housing. Under the terms of the agreement, Mutual Bank will grant FHA Title I property improvement loans at a rate 1% below the prevailing market rate. The loan proceeds combined with the Block Grant can reduce the cost of borrowing significantly.

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d. Neighborhood Housing Services, Inc. (NHS)

NHS is an organization of area residents, bankers, and city officials dedicated to improving existing housing stock in Boston. NHS is presently committed to the Columbia-Savin Hill, Mission Hill and Mt. Bowdoin-Glenway sections of Boston. Mutual Bank has been a contributor to NHS to help defray its operating costs and has committed to make mortgage loans on properties rehabilitated under NHS's supervision. The bank has representation on the NHS Board of Directors.

e. Boston Housing Partnership

The Boston Housing Partnership was organized to rehabilitate approximately 800 deteriorated and vacant housing units within the City of Boston and to make the rehabilitated properties available to low and moderate income residents. Mutual Bank provides financial support to the partnership, and the bank's president is a member of the BHP Board of Directors.

f. Massachusetts Mortgage Review Board

Mutual Bank participates in this voluntary program whereby denied mortgage applications are eligible for review by independent boards composed of community representatives and bankers. The purpose of the program is to ensure the ability of mortgage credit without discrimination on the basis of neighborhood or location.

g. Massachusetts Business Development Corporation (MBDC)

Mutual Bank has been involved for many years with MBDC, a venture which lends the pooled capital of the state's banks and insurance companies to small businesses. This program has been responsible for the creation or maintenance of several thousands of jobs in the Commonwealth.

h. Education Loans

Mutual Bank continues to be one of the leading lenders in the Student Loan Program in Massachusetts. In 1983, the bank granted over 2,300 student loans totaling over \$6 million.

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i. Tri-Lateral Council/Madison Park High School

Mutual Bank is a business partner with Madison Park High School through the Tri-Lateral Council for Quality Education. The bank provides job interview workshops for parents, as well as summer jobs for students. Mutual Bank staff members help to prepare students for careers in the business world through participation in career days and job readiness workshops at Madison Park High School. Mutual Bank's Foundation provides a scholarship to a Madison Park student and supports a program to acquaint students and parents with Home Base, an alternative education program at Madison Park High School.

j. Humphrey Occupational Resource Center

Mutual Bank is represented on the Banking Advisory Council for the Humphrey Occupational Resource Center, a skills training school opened in September 1980, to prepare Boston Public School students for entry level and long-range employment.

k. Officer/employee community involvement

Mutual Bank encourages its officers and employees to participate as members, volunteers, officers and directors involved with civic, social, cultural, business and professional organizations. Such participation provides a valuable link between the bank and the community it serves. The bank regularly accomodates participation by its officers and employees in such activities during regular working hours. As of March 1, 1985, 37 officers and employees reported affiliations or activities with over 100 organizations.

CHOATE, HALL & STEWART
EXCHANGE PLACE
53 STATE STREET
BOSTON, MASSACHUSETTS 02109



George Demougeot, Esquire
General Counsel's Office
Federal Election Commission
Washington, D.C. 20463

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600# 7604

CHOATE, HALL & STEWART

EXCHANGE PLACE

53 STATE STREET

BOSTON, MASSACHUSETTS 02109

TELEPHONE (617) 227-5080

TELECOPIER (617) 227-7588

TELEX 220874

CHARLES F. CHOATE, JR.
1929-1987
JOHN L. HALL
1929-1990
RALPH A. STEWART
1904-1996

May 24, 1985

RECEIVED
OFFICE OF THE
GENERAL COUNSEL
MAY 28 4:23 PM

John Warren McGarry, Chairman
Federal Election Commission
Washington, D.C. 20463

Re: Matter Concerning Mutual Bank, MUR 1998

Dear Sir:

This law firm represents Mutual Bank and its president, Keith G. Willoughby, in connection with the matter pending before the Federal Election Commission as MUR 1998. Please see the enclosed executed "Statement of Designation of Counsel."

This letter responds to your letter of May 15, 1985, informing the bank of your investigation and indicating that the bank could submit relevant factual or legal materials for consideration by the Commission within ten days of the receipt of your letter.

The bank wishes to provide the Commission with some detailed factual background concerning the subject of your investigation and to explain why we suggest that further proceedings by the F.E.C. are not warranted, given the circumstances of this matter.

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Background concerning Mutual Bank
and ThriftPAC

ThriftPAC is a federal political action committee established by the National Association of Mutual Savings Banks, and Massachusetts ThriftPAC is its state-level counterpart, established by the Savings Bank Association of Massachusetts. These political action committees annually conduct fund raising drives in which most savings banks both at the state and national level participate.

For the last several years, Massachusetts ThriftPAC has during the late spring of each year mailed a solicitation letter and brochure directly to the individual officers of the various savings banks throughout the state. Exhibits 1, 2, 3, 4 and 5. The Massachusetts ThriftPAC brochures follow a similar general format, soliciting funds not only for Massachusetts ThriftPAC but also for the national ThriftPAC and indicating that checks for both committees may be forwarded to Massachusetts ThriftPAC, which will in turn forward the national checks on to the national ThriftPAC.

A number of Mutual Bank's officers each year responded directly to the spring Massachusetts ThriftPAC solicitation letter, sending their contributions to the political action committee. In addition, Mutual Bank itself has each year supported the solicitation of funds from its officers by both Massachusetts ThriftPAC and the national ThriftPAC. Although

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senior management at the bank was advised of the aggregate totals of contributions, pursuant to bank policy the campaign administrator held the names of individual contributors confidential and senior management was unaware of which officers had given. This policy of confidentiality for donors was clearly communicated to the bank's officers.

The 1984 Massachusetts ThriftPAC letter to individual bank officers was dated May 9. Exhibit 4. On August 15, 1984, Mutual Bank's senior management addressed an in-house memorandum to all officers concerning the fund drive. Exhibit 6. Officers were "encouraged" to support these committees and were told that "Names of contributors will be kept confidential." On October 26, 1984, a follow-up memorandum prepared by the bank's president, Keith G. Willoughby, was circulated to the officers. Exhibit 7. The memorandum contained a decidedly energetic importuning for contributions. As a result of the 1984 campaign, Mutual Bank officers contributed a total of \$1,532 to the two ThriftPACs, roughly 13% less than had been contributed in 1983, 22% less than 1982, and 59% less than in 1981.¹ The 1984 contributions to federal ThriftPAC were

^{1/} ThriftPAC contributions from Mutual Bank officers for 1981 through 1984 were:

	<u>National ThriftPAC</u>	<u>Mass. ThriftPAC</u>	<u>TOTAL</u>
1981	\$754	\$3006	\$3760

(Footnote Continued on Next Page)

\$475.50, of which \$281.50 was donated after the October 26 memorandum.

No Mutual Bank representative has ever conducted a group meeting of employees to solicit funds or engaged in face-to-face personal solicitation. Mutual Bank has never in any fashion advised any officer or employee that failure to contribute would result in any type of reprisal, discrimination, or adverse employment effect. In point of fact, no Mutual Bank employee has ever suffered any adverse employment consequence as a result of his or her decision not to make a contribution. Bank policy has always been not to compel or coerce any employee into contributing to any cause or fund which he or she does not personally and voluntarily support -- including the United Way.

Indeed, senior management of the bank was not in a position to have penalized non-contributors, because the representations of confidentiality made to officers were scrupulously adhered to. Although the "ThriftPAC coordinator" was the bank's operations officer, in practice his secretary served as administra-

1/ (Footnote Continued From Previous Page)

1982	\$895.50	\$1069.50	\$1965
1983	\$823	\$ 932	\$1755
1984	\$475.50	\$1056.50	\$1532

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tor for the program. It was she who received all of the contribution checks which employees chose to route through the bank, as opposed to mailing in directly. Although the checks were generally addressed to her boss, the bank's operations officer, his practice was to refer the checks, frequently in unopened envelopes, directly to her. She then held the checks, making note of them on a contemporaneous chronological log, until she had assembled a large enough number to transmit to the state ThriftPAC.² She then prepared the transmittals of checks to Massachusetts ThriftPAC. She clearly understood from senior management of the bank, both the president and vice-chairman, that they absolutely did not want to know the names of individual contributors. Although Mutual Bank desired to encourage participation in the ThriftPAC program, the bank's statement to its officers of confidentiality was consistently adhered to.

Background concerning the October
26 Memorandum

The October 26 memorandum, although decidedly strong in tone, was not -- when viewed against the context in which it

2/ Her handwritten list, maintained by her on her own Initiative and for her own convenience, is the only listing of contributors. This list was never shown to senior management, or even to her boss. Hence, the suggestion on page 2 of the F.E.C. "General Counsel's Factual and Legal Analysis" that "the bank kept a list of who contributed" is misleading.

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was sent --inconsistent with the bank's firm policy that donations be voluntary and noncoercive. The memorandum was not addressed to the public at large, and many factors, including the intent of its author, the circumstances under which it was prepared, the environment at the bank against which it was received by the officers, the reactions of specific individual officers, and the actual success rate of the responses, must be considered to put the memorandum in context.³

3/ The principle that written words, no matter how facially unequivocal, can only be truly understood by placing them in the context of their surrounding circumstances is deeply rooted in our jurisprudence. As Professor Corbin has written concerning the venerable art of contract interpretation:

. . . A "normal speaker of English" (or of Sanskrit) could give it no meaning without knowing surrounding circumstances. . . .

* * *

. . . it can hardly be insisted on too often or too vigorously that language at its best is always a defective and uncertain instrument, that words do not define themselves, that terms and sentences in a contract, a deed, or a will do not apply themselves to external objects and performances. . . . Therefore, it is invariably necessary, before a court can give any meaning to the words of a contract . . ., that extrinsic evidence shall be heard to make the court aware of the "surrounding circumstances," including the persons, objects, and events to which the words can be applied and which caused the words to be used.

3 A. Corbin, Corbin on Contracts 16, 27-28 (1960).

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Since the creation of Mutual Bank in 1981, its president has been dedicated to developing a forward-thinking, aggressive, and competitive environment at the bank. As a part of this approach, he has endeavored to encourage a strong sense of two-way communication between junior officers and senior management. He has sought to encourage the view that, while he is a person of strong opinions and direct communication, he desires and expects the same back to him from lower level managers. A concrete example of the president's efforts to encourage this type of management interchange and atmosphere is the fact that, during the fall of 1984, the president participated in a series of informal wine and cheese meetings with the bank's junior officers, meeting with them a few at a time over a period of weeks. The purpose of this program was to communicate directly the philosophy that individual officers were expected to stand up and speak their minds on management issues affecting the bank, that people would not be penalized for failing to "adhere to the party line," and that the bank would be a better and stronger institution as a result of such dynamics. It was against this background that the October 26 memorandum was distributed to the officers.

Shortly before October 26, Mutual Bank's president had attended a bankers' trade association function, at which the comment had been made to him that Mutual Bank's 1984 contributions were lagging behind prior years. As a result, the presi-

dent roughed out a draft of the October 26 memorandum. He ran the draft by the vice-chairman who suggested some revisions, and sent out the final memorandum on October 26 over his own name. He was absolutely unaware of the requirement of 2 U.S.C. § 441b(b)(3)(C) that his memorandum contain a specific statement that the employees had a right to refuse to contribute without any reprisal. The draft memorandum was not discussed with or reviewed by the bank officers ordinarily connected with the ThriftPAC program. It was not drafted and disseminated following procedures which would ordinarily apply to a document addressing a technical or potentially sensitive area.

In using phrases such as the notion that each officer "should--must--consider" it a part of the "position" to contribute and that the response rate to date was "unacceptable," the president was expressing himself in the vigorous and enthusiastic style which he believed would be understood by the officers of the bank in the context of his clear philosophy that each individual officer is expected to stand his or her ground and to express freely his or her differing views. The word "must" was inserted as a stylistic flourish to emphasize the word "should" and was not intended to alter the precatory or exhortative notion of "should" into a mandate. The word "position" (as opposed to "job") was used to place the appeal in the context of one addressed to individuals who by virtue of their office were a part of the banking profession (as opposed to an

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appeal directed to individual employees in relation to their employment by a particular bank). The language was intended as a vigorous appeal to a group of savings bankers -- not as a job-related directive to Mutual Bank employees.⁴ Hind-sight is a great teacher, and in retrospect it is clear that the energetic wording of the October 26 memorandum is certainly open to misconstruction. However, from the author's point of view, the memorandum was absolutely not intended to impose a requirement of a contribution on peril of reprisal.

The response of the bank officers who received the memorandum is instructive. Reactions of officers ranged from amusement at the memo, to anger and upset at its tone, to dismissal of the memorandum as nothing more than a typical over-enthusiastic importunation from the front office intended as a reminder of the campaign. A number of officers regarded the October 26 memorandum as nothing more than a reminder memo and contributed after receiving the memorandum, because they had given in prior years and fully intended to give in 1984. These officers gave not because they were threatened by the memorandum, but because it served as a reminder. Other officers of the bank were sufficiently put off by the tone of the memorandum that they indeed determined not to give to the ThriftPACs

4/ In this regard, it is noteworthy that the October 26 memorandum was addressed only to "All Officers of Mutual Bank," not to the 500-odd employees at large.

at all in 1984. Some of these officers had in fact donated to ThriftPAC in prior years. Indeed, as noted above, the overall 1984 response to the ThriftPACs, even after the October 26 memo, was substantially less than it had been in prior years -- hardly evidence that the bank's officers were intimidated or coerced.

The present F.E.C. proceedings

The October 26 memorandum has been reported in the press, investigated by the Federal Bureau of Investigation, dealt with in a criminal prosecution, and now made the subject of an F.E.C. enforcement action. Under these circumstances, Mutual Bank respectfully submits that, in light of all the circumstances, no further F.E.C. enforcement proceedings are necessary or appropriate.

It is plain from the face of the October 26 memorandum that the document does not contain the advice to employees of their right to decline to contribute without any reprisal as specifically required by 2 U.S.C. § 441b(b)(3)(C). Hence, were it not for the prior resolution of this matter by the U.S. Attorney for the District of Massachusetts, this case would appear to be appropriate for resolution by conciliation under 2 U.S.C. § 437g(4) and (5)(A).⁵ However, after thorough investigation

5/ Disposition under 2 U.S.C. § 437g(5)(B), which deals with "knowing and willful" violations, would be inappropriate because Mr. Willoughby was unaware at the time he wrote the

(Footnote Continued on Next Page)

of the matter by the government, Mutual Bank agreed to a settlement by way of a plea to a criminal information.

Exhibit 8. On March 29, 1985, the bank paid the maximum fine of \$25,000.⁶ Exhibit 9. The U.S. Attorney, after careful evaluation of the entire situation, has formally gone on record that he "views the disposition contained in [the plea agreement] letter as constituting a full and appropriate settlement of all aspects of the matter which is the subject of this information." Exhibit 8, emphasis supplied. I understand that

5/ (Footnote Continued From Previous Page)

October 26 memorandum of the specific requirements of 2 U.S.C. § 441b(b)(3)(C) and the memorandum was not sent with the requisite "... 'defiance,' or 'knowing, conscious, and deliberate flaunting [sic]' of the Act," National Right to Work Committee v. Federal Election Commission, 716 F.2d 1401, 1403 (D.C. Cir. 1983), for a "willful" violation.

6/ The judgment in United States v. Mutual Bank, Crim. No. 85-086 (D. Mass. Mar. 29, 1985), will not bind or collaterally estop either the bank or Mr. Willoughby in any subsequent civil litigation. Cf. Bower v. O'Hara, No. 84-3400 (3d. Cir. Apr. 17, 1985) [53 U.S.L.W. 2541] (guilty plea in assault case not binding in subsequent civil litigation); Wright v. Comm'r of Internal Revenue, Tax Ct. No. 84-41 (Tax Ct. Apr. 8, 1985) [53 U.S.L.W. 2516] (tax crime conviction does not establish fraud for civil purposes). As to the bank, collateral estoppel does not apply because no issue relating to the October 26 memorandum was "actually litigated" in the criminal case, since it was resolved by a plea. Restatement (Second) of Judgments §§ 27, 85 and Comment e to § 27 (1982). With respect to Mr. Willoughby, collateral estoppel does not apply for the additional reason that he was not a party to the criminal case. Id. at §§ 27, 85 and Comment a to § 27. The suggestion in the footnote on page 2 of the F.E.C. "General Counsel's Factual and Legal Analysis" that Mr. Willoughby was a defendant in the criminal case and admitted guilt therein is not correct.

past F.E.C. practice has been not to pursue civilly matters which have been disposed of criminally.

The bank and Mr. Willoughby fully recognize that the October 26 memorandum was too strongly worded, and Mr. Willoughby has candidly acknowledged this and expressed his regret over the matter to the bank's employees. In a March 8, 1985 memorandum (Exhibit 10), he wrote:

In retrospect, the wording of the memo was too strong, and I didn't know I was required to include a disclaimer emphasizing that under federal law everyone had a right to refuse to make contributions to the industry-wide political action committee. . . .

* * *

No senior officer of the bank ever knew who contributed and who did not. This policy of confidentiality had been expressed repeatedly to the people addressed by the memo. . . . Senior management of Mutual Bank have always been opposed to any effort to force people to contribute to any campaign, even one as worthy as the United Way. It was certainly not my intention to compel any officer to contribute against his or her principles. To do so would have violated my deepest held beliefs about the moral necessity of respecting such principles.

. . . The Bank's and my personal cooperation [with the federal investigation] was based on the fact that we give total and unqualified support to the spirit and substance of the federal and state election laws that seek to protect employees from being forced on threat of reprisal to contribute to PACs or individual candidates.

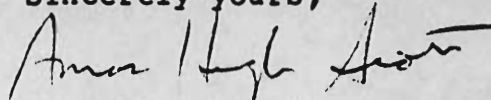
* * *

I hope it goes without saying that I regret that all of this happened, and I'm truly sorry if anybody who received the memo was offended by the tone or, even more, interpreted it as threatening.

Bank policy has always been that contributions should be strictly voluntary. At the time Mr. Willoughby wrote the October 26 memorandum, he did not intend it to be coercive and he was not aware of the requirements of § 441b(b)(3)(C) concerning a non-reprisal statement in the memo.

Under these circumstances, justice has been fully served by the criminal disposition of the matter in U.S. District Court in Boston, and we respectfully submit that the F.E.C. should discontinue the present proceedings.

Sincerely yours,



Amos Hugh Scott

AHS/mlv

Enclosures: Exhibits cited in the text
Statement of Designation of Counsel

85040553655

April 30, 1982

Dear Fellow Savings Banker:

Massachusetts THRIFTPAC enjoyed moderate success last year, raising \$25,000 in personal contributions from individuals affiliated with 96 savings banks. Clearly, broader participation throughout the savings bank industry would have easily permitted us to meet or exceed our announced goal of \$30,000.

This year is a critical legislative session. The Savings Banks Association is concentrating its legislative efforts on two bills - H 6874, relative to comprehensively revising the banking laws - and - H 2187, providing savings banks corporate tax equality. Passage of these bills are vital to the industry in view of present economic conditions and the continued development of deregulated banking markets.

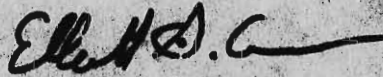
As part of this ambitious legislative objective, all levels of the savings bank industry are being mobilized statewide to become active legislatively. One method of political involvement is to provide financial support to worthy candidates. Massachusetts THRIFTPAC offers an excellent means for concerned savings bankers to channel their political contributions in the most effective manner. At times requests for political contributions are met with skepticism or hostility. The basic fact is that the costs associated with campaigning and remaining in office are expensive.

All the major industries competing with savings banks, such as the money market funds and commercial banks, have active political action committees whose resources can be used to advance a legislative purpose. Therefore, political campaign contributions must be viewed as a responsibility of all savings bankers who profess concern with the industry's welfare, and not a mere minority who historically was forced to assume a disproportionate burden in this area.

We are striving for 100% participation by savings bankers, which, with the cooperation of chief executive officers, could mean involvement by officers, employees, trustees and corporators. This year more than ever, please use this opportunity to support the savings bank industry's legislative program. The enclosed pamphlet provides background information relative to Massachusetts THRIFTPAC and detailed information on advisory levels of contributions.

Thank you for your anticipated support. Subject to applicable federal tax laws, your contribution may be eligible for a tax credit.

Sincerely,



Elliott G. Carr
Co-Chairman



Robert M. Henderson
Co-Chairman

85040553657

****State law prohibits any corporate candidate campaign contributions, and therefore your Massachusetts THRIFTPAC contributions must represent personal funds.**

* (Grp. 3)	Robert M. Henderson President Andover Savings Bank	Co-Chairman
	Elliott G. Carr President SBAM	Co-Chairman
	Robert K. Sheridan Vice President and Staff Counsel SBAM	Treasurer
* (Grp. 8)	George P. Adams President Great Barrington Savings Bank	Trustee
* (Grp. 5)	Donald A. Bogle President Fall River Five Cents Savings Bank	Trustee
* (Grp. 1)	Francis P. Brennan President Union Warren Savings Bank	Trustee
* (Grp. 7)	L. Robert Campbell Chairman of the Board Country Bank for Savings	Trustee
* (Grp. 7)	Richard B. Covell President Northampton Institution for Savings	Trustee
* (Grp. 6)	John J. Jackson President Spencer Savings Bank	Trustee
* (Grp. 1)	Robert G. Lee President 1st American Bank for Savings	Trustee
* (Grp. 3)	Charles W. Morse, Jr. President Newburyport Five Cents Savings Bank	Trustee
* (Grp. 2)	Robert B. Nickerson President Winchester Savings Bank	Trustee
* (Grp. 2)	Janet M. Pavliska President Arlington Five Cents Savings Bank	Trustee
* (Grp. 4)	Charles A. Pearce President Quincy Savings Bank	Trustee
* (Grp. 5)	Donald A. Pope President Attleborough Savings Bank	Trustee
* (Grp. 4)	Lindsay L. Tall President Braintree Savings Bank	Trustee
* (Grp. 6)	C. William Wester President Leominster Savings Bank	Trustee

EXHIBIT 2



MASSACHUSETTS
THRIFT PAC

50 Congress Street/Boston, MA 02109/(617) 742-7970



MASSACHUSETTS
THRIFT PAC



MASSACHUSETTS
THRIFT PAC



MASSACHUSETTS
THRIFT PAC

What is Massachusetts THRIFT PAC?

Massachusetts THRIFT PAC is a multi-candidate political committee established under the provisions of state campaign finance laws, which is not affiliated with any political party nor any particular candidate(s). Contributions may be received from individual savings bankers, including officers, employees, trustees and corporators, and other individuals connected with the savings bank industry. All funds received by Massachusetts THRIFT PAC other than those deducted for administrative expenses will be used as campaign contributions to candidates for state legislative and constitutional offices.

WHAT LIMITATIONS ARE
ON THE CONTRIBUTION POLICY OF
MASSACHUSETTS THRIFTPAC?

The contribution policy and other pertinent affairs of the committee are determined by a Board of Trustees, consisting primarily of savings bankers located regionally throughout the state.

ARE THERE LIMITS TO THE AMOUNTS WHICH
AN INDIVIDUAL MAY CONTRIBUTE TO
MASSACHUSETTS THRIFTPAC?

An individual may legally give up to a maximum of \$1,000 in any calendar year. There is no minimum contribution prescribed by law. For general reference and possible guidance in determining your level of contribution, Massachusetts THRIFTPAC hopes to raise \$30,000 this upcoming year — an industry-wide contribution level of \$2 per \$1 million of bank assets would allow Massachusetts THRIFTPAC to more than realize its goal.

MAY CONTRIBUTIONS CONSIST IN WHOLE
OR IN PART OF A SAVINGS BANK'S FUNDS?

No, state law prohibits any direct or indirect corporate campaign contributions and therefore contributions to Massachusetts THRIFTPAC must represent the personal, voluntary contributions of individuals.

IS MASSACHUSETTS THRIFTPAC
CONNECTED OR OTHERWISE AFFILIATED
WITH NAMSBB'S THRIFTPAC?

No, Massachusetts THRIFTPAC is established for state elected offices and must, under law, remain separate from NAMSBB's THRIFTPAC which is established for federal elected offices. The law requires distinct so-called political action committees for federal and state campaign fund raising. Therefore, contributions must be separately made out and not commingled, however, Massachusetts THRIFTPAC is attempting to coordinate certain of its activities with NAMSBB's THRIFTPAC.

As stated above in terms of advisory levels of total contributions from savings banks, if 70% of the

given to Massachusetts THRIFTPAC and 30% of this amount was given to NAMSBB's THRIFTPAC, the state PAC would realize its \$30,000 goal and the federal PAC would realize its goal in Massachusetts of \$9,000.

For example, a savings bank having \$200 million in assets following these advisory levels would send \$280 to Massachusetts THRIFTPAC in personal checks and, assuming the requisite solicitation authorization, would make out checks totaling \$120 to NAMSBB's THRIFTPAC. Massachusetts THRIFTPAC and NAMSBB's THRIFTPAC have an arrangement wherein savings banker contributions to the federal PAC can be forwarded through Massachusetts THRIFTPAC. However, in such a case it is important and the law requires that separate checks be made out to each PAC. We are strictly prohibited by law from dividing contributions and drawing a check to NAMSBB THRIFTPAC for federal political contributions.

HOW ARE MASSACHUSETTS THRIFTPAC
CONTRIBUTIONS TREATED TAX-WISE?

Under federal tax laws, such contributions would be eligible for the tax-credit for all state and federal political contributions up to a maximum of \$50 credit individually or a \$100 credit on a joint return. To receive the benefits of the \$100 credit, at least \$200 in political contributions would have to be reported in a joint tax return.

HOW ARE CONTRIBUTIONS TO AND FROM
MASSACHUSETTS THRIFTPAC
REPORTED?

In accordance with state campaign finance laws, all contributions are reported to the Office of Campaign and Political Finance, with contributors giving \$15 or more reported by name. Actual contributions made by Massachusetts THRIFTPAC to individual candidates would be listed by candidates in the name of the committee.

The trustees and officers of Massachusetts THRIFTPAC would be delighted to divulge to interested savings bankers contributing to Massachusetts THRIFTPAC the identity of those candidates on whose behalf campaign contributions are made.

Enclosed is my contribution of _____ for Massachusetts THRIFTPAC. Checks should be made out to Massachusetts THRIFTPAC, and mailed to Massachusetts THRIFTPAC, Room 515, 50 Congress St., Boston, Massachusetts, 02109.

For those who plan or wish to give \$100 or more this year, installments can be arranged.

For operational reasons, Massachusetts THRIFTPAC can only provide installment payments in minimums of \$50. Please check off (✓) desired method; semi-annually () or quarterly (), include first installment of \$50 and indicate intended annual contributions _____

Name _____

Home Address _____

Bank & Title _____

* You are reminded that state law prohibits corporate campaign contributions.

MASSACHUSETTS

THRIFTPAC

50 Congress Street Boston, MA 02109 (617) 742-7970

April 5, 1983

Dear Fellow Savings Banker:

Massachusetts THRIFTPAC is the state political action committee for the savings bank industry. During our first two years, a number of savings bankers generously and faithfully supported our efforts. Although we realized some success in raising money for political contributions in terms of the industry's potential, our results could have been much greater.

Despite passage of the comprehensive banking legislation in 1982, there is still the need for further legislation. Without any doubt, savings banks must receive tax equity for our long-term viability. Massachusetts THRIFTPAC offers an excellent opportunity to support this initiative.

Political fund-raising is often times looked upon askance by too many savings bankers. This sentiment ignores the fact that campaigning for and remaining in public office is expensive. Candidates need contributions to be successful.

We are striving for 100% participation by savings bankers. In the past, contributions have been received from chief executive officers, officers, employees, trustees and corporators. Please get involved and make a contribution to Massachusetts THRIFTPAC. In order to achieve our 1983 goal of \$35,000, everyone must give their fair share.

The enclosed brochure provides important background regarding Massachusetts THRIFTPAC, including information on contributions. The brochure also refers to our coordinated activities with the separate federal PAC, NAMS's THRIFTPAC. Subject to applicable federal tax limits, your contribution may be eligible for a tax credit.

Sincerely,

Bernard K. Garceau

Bernard K. Garceau
Chairman

** State law strictly prohibits any corporate political contributions; therefore, your Massachusetts THRIFTPAC contribution must represent personal funds.

MASSACHUSETTS

THRIFTPAC

50 Congress Street/Boston MA 02109/(617) 742-7970

May 9, 1984

Dear Fellow Savings Banker:

Massachusetts THRIFTPAC is the state political action committee created by and for the savings bank industry to assist candidates who support our legislative objectives. During our first three years, more than a thousand savings bankers generously and faithfully supported our efforts. Although we realized some limited success in raising money for political contributions, in terms of the industry's potential, our results should have been much greater.

Despite the passage of comprehensive banking legislation in 1982, there are a number of legislative objectives which remain. Without a doubt, savings banks must receive tax parity for continued long-term viability. In order to continue our efforts on the tax parity bill and other progressive banking legislation, Massachusetts THRIFTPAC needs the total support of all interested savings bankers.

Political fund raising is oftentimes looked upon negatively by too many savings bankers. This sentiment ignores the fact that campaigning for and remaining in public office is expensive. Candidates who support our industry need contributions to be successful.

During this year's effort, we are striving for 100% participation by savings bankers. In the past, contributions have been received from chief executive officers, officers, employees, trustees and corporators. Please get involved and make a contribution to Massachusetts THRIFTPAC. To achieve our 1984 goal of \$35,000, everyone must give their fair share.

The enclosed brochure provides important background regarding Massachusetts THRIFTPAC, including information on contributions. The brochure also refers to our coordinated activities with the separate federal PAC, NCSI's THRIFTPAC. Subject to applicable federal tax limits, your contribution may be eligible for a tax credit.

Sincerely,

Janet M. Pavliska

Janet M. Pavliska
Chairman

** State law strictly prohibits any corporate political contributions; therefore, your Massachusetts THRIFTPAC contribution must represent personal funds.

8504055361

Who determines the contribution policy of Massachusetts THRIFTPAC?

The contribution policy and other pertinent affairs of the committee are determined by a Board of Trustees, consisting primarily of savings bankers representing the various regions of the state.

Are there limits to the amounts which an individual may contribute to Massachusetts THRIFTPAC?

An individual may legally give up to a maximum of \$1,000 in any calendar year. Contributions may be received from individual savings bankers, including officers, employees, trustees and corporators, and other individuals connected with the savings bank industry. For general reference and possible guidance in determining your level of contribution, Massachusetts THRIFTPAC hopes to raise \$35,000 this upcoming year. An industry-wide contribution level of \$2 per \$1 million of bank assets would allow Massachusetts THRIFTPAC to more than realize its goal.

May contributions consist in whole or in part of a savings bank's funds?

No. State law prohibits any direct or indirect corporate campaign contributions. Therefore, all contributions to Massachusetts THRIFTPAC must represent the personal, voluntary contributions of individuals.

How does Massachusetts THRIFTPAC differ from NCSI THRIFTPAC?

Massachusetts THRIFTPAC was established for state elected offices and must, under law, remain separate from NCSI's THRIFTPAC which was established for federal elected offices. The law requires separate political action committees for federal and state campaign fund raising. Therefore, contributions must be separately made out and not commingled. However, Massachusetts THRIFTPAC does coordinate certain of its activities with NCSI's THRIFTPAC.

As stated above in terms of advisory levels of total contributions from savings banks, if 70% of

the minimum \$2 per \$1 million in bank assets were given to Massachusetts THRIFTPAC and 30% of this amount were given to NCSI's THRIFTPAC, the state PAC would realize its \$35,000 goal and the federal PAC would realize its goal in Massachusetts of \$10,000.

For example, individuals affiliated with a savings bank having \$200 million in assets following these advisory levels would send \$280 to Massachusetts THRIFTPAC in personal checks and, assuming the requisite authorization has been provided, would make out checks totaling \$120 to NCSI's THRIFTPAC. Massachusetts THRIFTPAC and NCSI's THRIFTPAC have an arrangement wherein savings banker contributions to the federal PAC can be forwarded through Massachusetts THRIFTPAC. In such a case it is important and the law requires that separate checks be made out to each PAC. We are strictly prohibited by law from dividing contributions and drawing a check to NCSI THRIFTPAC for federal political contributions.

How are Massachusetts THRIFTPAC contributions treated tax-wise?

Under federal tax laws, such contributions are eligible for the tax credit for all state and federal political contributions up to a maximum of \$50 credit individually or a \$100 credit on a joint return. To receive the benefits of the \$100 credit, at least \$200 in political contributions have to be reported in a joint tax return.

How are contributions to and from Massachusetts THRIFTPAC reported?

In accordance with state campaign finance laws, all contributions are reported to the Office of Campaign and Political Finance, with contributors giving \$15 or more reported by name. Actual contributions made by Massachusetts THRIFTPAC to individual candidates will be listed by candidates in the name of the committee.

The trustees and officers of Massachusetts THRIFTPAC would be delighted to provide to any interested savings bankers contributing to Massachusetts THRIFTPAC the names of candidates who have received contributions.

Enclosed is my contribution of _____ for Massachusetts THRIFTPAC.

Checks should be made out to Massachusetts THRIFTPAC, and mailed to

Massachusetts THRIFTPAC, Room 515, 50 Congress St., Boston, Massachusetts, 02109.

All contributions must be accompanied by a complete listing of the individual contributors' home addresses.

Name _____

Home Address _____

Bank & Title _____

* You are reminded that state law prohibits corporate campaign contributions.

Massachusetts THRIFT PAC Board of Trustees

8 5 0 4 0 5 5 3 6 6 3

*(Grp. 2)	Janet M. Pavliska President Arlington Five Cents Savings Bank	Chairman
	Robert K. Sheridan President SBAM	Treasurer
	Kevin F. Kiley Director of Legislative and Regulatory Affairs SBAM	Assistant Treasurer
*(Grp. 8)	George P. Adams President Great Barrington Savings Bank	Trustee
*(Grp. 1)	Francis P. Brennan Chairman Union Warren Savings Bank	Trustee
*(Grp. 6)	Harold Cabot President Worcester County Institution for Savings	Trustee
*(Grp. 5)	Timothy J. Cotter President Fall River Five Cents Savings Bank	Trustee
*(Grp. 7)	Richard B. Covell President Northampton Institution for Savings	Trustee
*(Grp. 4)	Donald R. Eldridge President Abington Savings Bank	Trustee
*(Grp. 3)	Peter A. Hersee President Beverly Savings Bank	Trustee
*(Grp. 6)	John J. Jackson President Spencer Savings Bank	Trustee
*(Grp. 7)	William A. James President Springfield Institution for Savings	Trustee
*(Grp. 1)	Robert G. Lee President 1st American Bank for Savings	Trustee
*(Grp. 2)	Robert B. Nickerson President Winchester Savings Bank	Trustee
*(Grp. 2)	Thomas F. O'Connor President Medford Savings Bank	Trustee
*(Grp. 4)	Charles A. Pearce Chairman Quincy Savings Bank	Trustee
*(Grp. 5)	Donald A. Pope President Attleborough Savings Bank	Trustee
*(Grp. 3)	Robert H. Studley Chairman Falmouth Savings Bank	Trustee

*Represents SBAM Geographic Group.



50 Congress Street/Boston, MA 02109/(617) 742-7970



What is Massachusetts THRIFT PAC and why is it important?

Massachusetts THRIFT PAC is a multi-candidate political committee established under the provisions of state campaign finance laws. It is not affiliated with any political party nor any particular candidate or candidates. The concerns of the savings bank industry must be represented at all levels of government in order to affect those political decisions which could have the most dramatic impact on the future of our industry. Massachusetts THRIFT PAC, by combining the resources of hundreds of savings bankers, gives our industry a more effective voice in the political process.

MEMORANDUM No. 307-84

TO: All Officers

RE: NCSI and SBAM THRIFTPACs

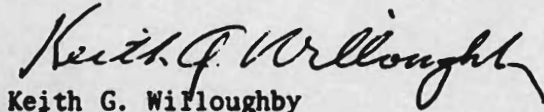
In this election year particularly, our support of candidates favorable to banking interests will be of crucial importance. If the political action committees established by the National and State Associations are to be effective, however, they need the help of all savings bankers.

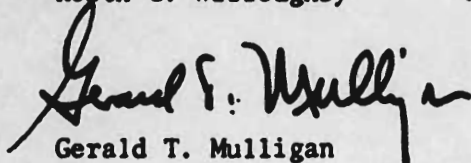
We encourage you to support these committees and ask that 70% of your contribution be made to "Massachusetts THRIFTPAC" and 30% to "THRIFTPAC" (separate checks, please). A brochure from Massachusetts THRIFTPAC is enclosed and includes a contribution form for your use. No form is necessary for NCSI THRIFTPAC.

Your entire contribution should be forwarded to Dave Donald, who will act as coordinator for Mutual Bank. Names of contributors will be kept confidential.

If you have any question on either of these political action committees, please do not hesitate to contact one of us.

Thank you for your anticipated response to this important effort.


Keith G. Wifloughby


Gerald T. Mulligan

8/15/84

EXHIBIT 6

8504053664

Memorandum No. 429-84

To: All Officers of Mutual Bank
From: Keith G. Willoughby
Date: October 26, 1984

Several months ago, all of you received an appeal for contributions to the state and national political action committees of our industry. This week I learned that Mutual Bank officers have failed by a substantial margin to reach the goal on either, and in the case of the national Thriftpac, have not even reached the half-way mark. Even worse, only nineteen of the fifty-nine officers in the bank have contributed.

That is unacceptable. All of you are fully aware of the importance to this bank of the issues being voted on this year, particularly the state tax and the Central Fund dividend and, I hope none of you is so naive as to think that political contributions--even those from PAC's, despite all of the pious rhetoric--do not play a vital part in the progress of such matters. You must also know how active Gerry Mulligan and I have been in this area. Even if you give substantially to individual candidates, as Gerry and I do, you should, as officers of this bank, all support the PAC's.

Every single officer of this institution should--must--consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac. Please send your checks, not later than next Friday, to Dave Donald to be forwarded.



U.S. Department of Justice

United States Attorney
District of Massachusetts

1107 J.W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

March 6, 1985

Amos Hugh Scott, Esq.
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

Dear Mr. Scott:

I am writing to confirm our agreement of today concerning matters pertaining to Mutual Bank, fsb.

The United States, by and through its undersigned attorneys, and Mutual Bank, fsb, by and through its undersigned attorney and Chairman of the Board of Directors, hereby enter into the following agreements:

(1) Mutual Bank, fsb, agrees to plead guilty to a one count Information (copy attached) charging it with violation of Title 2 U.S.C. §§441b(b)(3)(C) and 437g(d).

(2) The United States agrees to recommend to the sentencing judge a \$17,000 fine as the appropriate sentence against Mutual Bank on this matter.

(3) The United States agrees to bring no criminal charges, other than the present Information, against Mutual Bank or its trustees, officers, employees and agents on account of any violations of Title 2 of the United States Code regarding the solicitation of contributions for bank industry political action committees, or based upon any matter which was the subject of the investigation leading to the present Information, all through the date of this agreement.

(4) The United States Attorney views the disposition contained in this letter as constituting a full and appropriate settlement of all aspects of the matter which is the subject of this Information.

The above constitutes the entire agreement between the parties. No additional agreements exist, and no further agreements will exist unless agreed to in writing.

Sincerely,

William F. Weld

WILLIAM F. WELD
United States Attorney

Daniel I. Small

DANIEL I. SMALL
Assistant U.S. Attorney

Agreed to for Mutual Bank, fsb:

Date: November 4, 1985

Keith G. Willoughby
Keith G. Willoughby
Chairman of the Board and
President

Date: March 6, 1985

Amos Hugh Scott
Amos Hugh Scott
Counsel for Mutual Bank, fsb

85040553667

DEFENDANT

MUTUAL BANK, fcb

DISTRICT OF MASSACHUSETTS

DOCKET NO.

85-00086

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government
the defendant appeared in person on this date

MONTH

DAY

YEAR

3

29

85

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have
counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Amos Hugh Scott, Esquire

(Name of Counsel)

PLEA

☒ GUILTY, and the court being satisfied that
there is a factual basis for the plea,☐ NOLO CONTENDERE,☐ NOT GUILTYFINDING &
JUDGMENT

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged☒ GUILTY.

Defendant has been convicted as charged of the offense(s) of

violating the Federal Election Campaign Act, 1. e.,
knowingly and willfully soliciting contributions to
Thriftpac from employees without informing said employees,
at the time of the solicitation, of their right to refuse
to make the contribution thus solicited without fear of
any reprisal, all in violation of Title 2, United States
Code, Sections 441b(b) (3) (C) and 437g(d).

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary
was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that: ~~The defendant is~~
~~hereby committed to the custody of the Attorney General for a period of five years, or until the defendant has paid the fine of twenty-five thousand dollars, or until the defendant has completed the special conditions of probation imposed above.~~

A fine of twenty-five thousand dollars (\$25,000.00)

is to be paid forthwith.

SENTENCE
OR
PROBATION
ORDERSPECIAL
CONDITIONS
OF
PROBATIONADDITIONAL
CONDITIONS
OF
PROBATIONCOMMITMENT
RECOMMEN-
DATION

The court orders commitment to the custody of the Attorney General and recommends

It is ordered that the Clerk deliver
a certified copy of this judgment
and commitment to the U.S. Marshal
or other qualified officer.

CERTIFIED AS A TRUE COPY

SIGNED BY

☐ U.S. District Judge☒ U.S. Magistrate

THIS DATE

March 29, 1985

By

Ruth Q. Hulse

(1) Clerk

X DEPUTY

EXHIBIT 9 Date

3/29/85

March 8, 1985

MEMORANDUM No. 111-85

TO ALL EMPLOYEES

I think we can all agree that in recent weeks the Boston banker's lot has not been a happy one.

But, I am happy to share with you the fact that a conclusion has been reached in the U. S. Attorney's investigation of my October 26, 1984 memo to Mutual Bank officers on the subject of PACs.

In brief, common sense led us to accept the settlement proposed by the U. S. Attorney's office. We are awaiting the federal court's final disposition of this matter which we anticipate will occur next week.

In retrospect, the wording of the memo was too strong, and I didn't know I was required to include a disclaimer emphasizing that under federal law everyone had a right to refuse to make contributions to the industry-wide political action committee. Had I known, I would have put it in. It was the absence of such a disclaimer that led the government to suspect that the memo may have been written with a purpose other than I intended.

Nothing could be further from the truth.

As you know, the recent past has been an extremely difficult period for the thrift industry. It has been only through an enormous amount of hard work that we have been able to persuade national and state lawmakers to change the regulations that were denying our customers the opportunity to get a market return on their deposits and competitive services they were entitled to expect. It was -- and is -- my view that we in the industry have a continuing obligation to our customers to see that thrift interests are effectively expressed at the state and national level. That is precisely what the industry PACs were organized to do, in a completely open manner. Again, the sole purpose of the October 26th memo was to strongly urge the officers of the Bank to consider supporting the PAC's work.

No senior officer of the bank ever knew who contributed and who did not. This policy of confidentiality had been expressed repeatedly to the people addressed by the memo. Some others, outside the bank, refused to believe that. Instead, the news focused entirely on a tone of the memo, which admittedly was strong. In part, this forcefulness was justified in my mind because of the very anonymity and confidentiality of the process here at Mutual Bank. Senior management of Mutual Bank have always been opposed to any effort to force people to contribute to any campaign, even one as worthy as the United Way. It was certainly not my intention to compel any officer to contribute against his or her principles. To do so would have violated my deepest held beliefs about the moral necessity of respecting such principles.

You should know that the Bank and I personally cooperated with the investigation to the fullest extent at all times because we had absolutely nothing to hide. Furthermore, the Bank's and my personal cooperation was based on the fact that we give total and unqualified support to the spirit and substance of the federal and state election laws that seek to protect employees from being forced on threat of reprisal to contribute to PACs or individual candidates.

(over)

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Any way you look at it, I have to be counted as a dog bust as a fundraiser. A number of officers totally ignored my appeal, and those who did contribute, gave an average \$7.40 each to the federal PAC. Rodney Dangerfield gets more respect than that.

I hope it goes without saying that I regret that all of this happened, and I'm truly sorry if anybody who received the memo was offended by the tone or, even more, interpreted it as threatening.

It is behind us now. Mutual Bank has come a long way in the past few years, and is exceptionally well positioned for the future. Let's all focus on that future in the spirit of openness and mutual respect which we should all strive to maintain throughout all levels of the Bank.

Keith G. Willoughby

KGW:lc

85040553670

600#7604

STATEMENT OF DESIGNATION OF COUNSEL

NOV 1998

NAME OF COUNSEL: Amos Hugh Scott

ADDRESS: Choate, Hall & Stewart
Exchange Place
53 State Street

Boston, Massachusetts 02109

TELEPHONE: (617) 227-5020

MAY 28 P 4: 29

RECEIVED
GENERAL COUNSEL

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

May 24, 1985
Date

Keith G. Willoughby
Signature
Keith G. Willoughby, President

RESPONDENT'S NAME: Mutual Bank

ADDRESS: Keith G. Willoughby, President

45 Franklin Street

Boston, Massachusetts 02110

HOME PHONE: -

BUSINESS PHONE: (617) 482-7530

85040553671



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

May 15, 1985

Keith G. Willoughby, President
Mutual Bank
45 Franklin Street
Boston, Massachusetts 02110

RE: MUR 1998

Dear Mr. Willoughby:

On May 8, 1985, the Federal Election Commission determined that there is reason to believe that Mutual Bank and you, as President of Mutual Bank, violated 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within ten days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against the Bank and you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A),

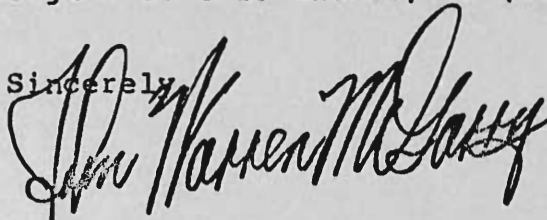
85040553672

Keith G. Willoughby
Page 2

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 George Demougeot, the staff member assigned to this matter, at (202) 523-4000.

Sincerely,



John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

85040553673

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. 1998

RESPONDENT Mutual Bank
Keith G. Willoughby

SUMMARY OF ALLEGATIONS

8 5 0 4 0 5 3 6 7 4
An examination of the Mutual Bank, Boston, Massachusetts, by the Federal Home Loan Bank Board ("FHLBB") revealed a potential violation of 2 U.S.C. § 441b. The potential violation centers on a memorandum issued by the President of Mutual Bank, Keith G. Willoughby, to "All Officers of Mutual Bank" concerning their "unacceptable" response to a prior appeal to contribute to Massachusetts Thrift PAC and Thrift PAC. The memorandum stated, in part, that "[e]very single officer of this institution should -- must -- consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac." In addition, the FHLBB examiner noted in his report, the bank maintained a list of those officers who had contributed to the political action committees and the amount of their contributions.

FACTUAL BASIS AND LEGAL ANALYSIS

2 U.S.C. § 441b(b)(3)(C) prohibits any person soliciting an employee for a contribution to fail to inform such employee, at the time of the solicitation, of his right to refuse to so contribute without any reprisal.

2 U.S.C. § 441b(b)(3)(A) prohibits the political committee of a trade association from utilizing money secured by physical force, job discrimination, financial reprisals, or the threat of physical force, job discrimination, or financial reprisal; or by

dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment.

The October 26, 1984, memorandum from Mr. Willoughby to all officers of the Mutual Bank fails to inform the officers of their right to refuse to contribute without fear of reprisal. In fact, the language of the memorandum, its tone, and the fact that the bank kept a list of who contributed to the political action committees and how much was contributed, suggests the prospect of reprisals for not making a contribution. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, violated 2 U.S.C. § 441b(b) (3) (C).*/

*/ On March 11, 1985, a plea agreement was filed in the U.S. District Court for the District of Massachusetts in which Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, admitted guilt to a criminal violation of 2 U.S.C. § 441b(b) (3) (C).

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Keith G. Willoughby, President
Mutual Bank
45 Franklin Street
Boston, Massachusetts 02110

RE: MUR

Dear Mr. Willoughby:

On , 1985, the Federal Election Commission determined that there is reason to believe that Mutual Bank and you, as President of Mutual Bank, violated 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within ten days of your receipt of this letter.

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

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A),

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Keith G. Willoughby
Page 2

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 George Demougeot, the staff member assigned to this matter, at (202) 523-4000.

Sincerely,

John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

85040553677

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. _____

RESPONDENT Mutual Bank
Keith G. Willoughby

SUMMARY OF ALLEGATIONS

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2 U.S.C. § 441b(b)(3)(A) prohibits the political committee of a trade association from utilizing money secured by physical force, job discrimination, financial reprisals, or the threat of physical force, job discrimination, or financial reprisal; or by

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85040553679

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of
Mutual Bank
Keith G. Willoughby

)
)
)
)
PreMUR 139 and 141

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on May 8, 1985, the Commission decided by a vote of 5-0 to take the following actions in PreMUR 139 and 141:

1. Merge PreMUR 139 and PreMUR 141, and open a MUR.
2. Find reason to believe that Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, violated 2 U.S.C. § 441b(b)(3)(C).
3. Take no action with respect to Thrift PAC at this time.
4. Approve the letter and factual and legal analysis attached to the First General Counsel's Report signed May 2, 1985.

Commissioners Elliott, Harris, McDonald, McGarry and Reiche voted affirmatively in this matter; Commissioner Aikens did not cast a vote.

Attest:

5-8-85

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

Received in Office of Commission Secretary:
Circulated on 48 hour tally basis:

5-3-85, 5:15
5-6-85, 11:00

85040553680



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

MEMORANDUM

TO: Office of the Commission Secretary

FROM: Office of General Counsel *pd*

DATE: May 3, 1985

SUBJECT: Pre-MUR 139 and 141 - First General Counsel's Rpt.

The attached is submitted as an Agenda document
for the Commission Meeting of _____

Open Session _____

Closed Session _____

CIRCULATIONS

48 Hour Tally Vote ☒ ☒
Sensitive ☒
Non-Sensitive ☐

24 Hour No Objection ☐
Sensitive ☐
Non-Sensitive ☐

Information ☐
Sensitive ☐
Non-Sensitive ☐

Other ☐

DISTRIBUTION

Compliance ☒

Audit Matters ☐

Litigation ☐

Closed MUR Letters ☐

Status Sheets ☐

Advisory Opinions ☐

Other (see distribution below) ☐

85040553681

SENSITIVE

FEDERAL ELECTION COMMISSION
1325 K Street, N.W.
Washington, D.C. 20463

RECEIVED
OFFICE OF THE FEC
COMMISSIONER
SECRETARY

FIRST GENERAL COUNSEL'S REPORT MAY 30 1975

DATE AND TIME OF TRANSMITTAL BY
OGC TO THE COMMISSION _____

Pre-MUR NO. 139 and 141
STAFF MEMBER
George Demougeot

SOURCE OF Pre-MUR: I N T E R N A L L Y G E N E R A T E D

RESPONDENTS' NAMES: Mutual Bank
Keith G. Willoughby

RELEVANT STATUTE: 2 U.S.C. § 441b(b)(3)(A)
2 U.S.C. § 441b(b)(3)(C)

INTERNAL REPORTS
CHECKED: Committee Reports

GENERATION OF MATTER

This matter is based on separate referrals received from the Federal Home Loan Bank Board and the Department of Justice. (Attachments I and II).

SUMMARY OF ALLEGATIONS

An examination of the Mutual Bank, Boston, Massachusetts, by the Federal Home Loan Bank Board ("FHLBB") revealed a potential violation of 2 U.S.C. § 441b. The potential violation centers on a memorandum issued by the President of Mutual Bank, Keith G. Willoughby, to "All Officers of Mutual Bank" concerning their "unacceptable" response to a prior appeal to contribute to Massachusetts Thrift PAC and Thrift PAC. The memorandum stated, in part, that "[e]very single officer of this institution should -- must -- consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac." In addition, the FHLBB examiner noted in his report, the bank maintained a

8504053682

list of those officers who had contributed to the political action committees and the amount of their contributions.

FACTUAL AND LEGAL ANALYSIS

2 U.S.C. § 441b(b)(3)(C) prohibits any person soliciting an employee for a contribution to fail to inform such employee, at the time of the solicitation, of his right to refuse to so contribute without any reprisal.

2 U.S.C. § 441b(b)(3)(A) prohibits the political committee of a trade association from utilizing money secured by physical force, job discrimination, financial reprisals, or the threat of physical force, job discrimination, or financial reprisal; or by dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment.

The October 26, 1984, memorandum from Mr. Willoughby to all officers of the Mutual Bank fails to inform the officers of their right to refuse to contribute without fear of reprisal. In fact, the language of the memorandum, its tone, and the fact that the bank kept a list of who contributed to the political action committees and how much was contributed, suggests the prospect of reprisals for not making a contribution. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, violated 2 U.S.C. § 441b(b)(3)(C).*/

*/ On March 11, 1985, a plea agreement was filed in the U.S. District Court for the District of Massachusetts in which Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, admitted guilt to a criminal violation of 2 U.S.C. § 441b(b)(3)(C). (Attachment III).

At this time, there is no evidence that suggests that Thrift PAC was aware of Mr. Willoughby's follow-up solicitation or that the \$281.50 contributed might be tainted. Thus, the Office of General Counsel recommends that the Commission take no action with respect to Thrift PAC at this time.

RECOMMENDATIONS

1. Merge Pre-139 and Pre-MUR 141, and open a MUR.
2. Find reason to believe that Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, violated 2 U.S.C. § 441b(b) (3) (C).
3. Take no action with respect to Thrift PAC at this time.
4. Approve the attached letter and factual and legal analysis.

Charles N. Steele
General Counsel

May 2, 1985
Date

BY:

Kenneth A. Gross
Associate General Counsel

Attachments

- I. Referral from the FHLBB
- II. Referral from DOJ
- III. Press release, Information, and Plea from DOJ
- IV. Proposed General Counsel's Factual and Legal Analysis
- V. Proposed letter

35040553684

FEDERAL HOME LOAN BANK BOARD

OFFICE OF SUPERVISORY AGENT
DISTRICT ONE

ONE FEDERAL STREET, BOSTON

P.O. BOX 2196
BOSTON, MA 02106-2196
(617) 223-5300

January 17, 1985

pm
139

12:37
P 3:28

Federal Elections Commission
Office of General Counsel
1325 K Street, NW
Washington, DC 20552


Gentlemen:

The examination of Mutual Bank fsb, Boston, Massachusetts currently underway by the Federal Home Loan Bank of Boston revealed a potential violation of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. Section 441(b). Because your agency has exclusive jurisdiction over violations of this type, (2 U.S.C. Section 437(c)(b)(1) (1980); FHLBB Memorandum T-68, June 8, 1981), the enclosed information is provided for your consideration.

Enclosed please find (1) the examiner's reporting of the situation, (2) a copy of the institution's response to the examiner's comments, (3) a copy of the bank's internal memorandum, and (4) a copy of FHLBB Memorandum T-68.

The "draft comment" referred to in enclosures (1) and (2) is in fact the final comment that will appear in the report of examination. If this office can be of further assistance regarding this matter, please contact the undersigned at (617) 223-5300.

Sincerely,


John F. Henderson
Supervisory Agent

JFH:slb
B-8
Enclosures

cc: Raymond H. Elliott, President, Federal Home Loan Bank of Boston
Edward J. O'Connell, III, Asst. Director for Regional Ops., OES
Charles E. Seaman, District Director, OES - District I
Thomas Lawless, FDIC

Attachment I
①

CHOATE, HALL & STEWART

60 STATE STREET

BOSTON, MASSACHUSETTS 02109

TELEPHONE (617) 527-3000

TELESCOPIER (617) 527-7500

TELEX 94-0216

CHARLES S. CHOATE, JR.
1906-1947
JOHN L. HALL
1899-1960
DAVID A. STEWART
1904-1984

January 10, 1985

Mr. John H. Lee
Federal Home Loan Bank Board
c/o Mutual Bank
45 Franklin Street
Boston, Massachusetts 02110

**Re: Revised Draft Comments Concerning Examination
Report for Mutual Bank**

Dear Mr. Lee:

This letter is submitted in behalf of Mutual Bank, which is represented by this law firm, in order to respond to certain revised draft comments titled "Contributions To Political Action Committees" in the examination report for Mutual Bank. Initial draft comments concerning this subject were submitted to the bank for comment in mid-December 1984. The bank provided a memorandum in response to the initial draft comments on December 18, 1984. In late December, revised draft comments were resubmitted to the bank. This letter responds to the revised draft comments, a copy of which is reproduced as Enclosure 1 to this letter.

No violation of 2 U.S.C. § 441b(a) has occurred.

The revised draft comments deal with an October 26, 1984 memorandum to all officers of Mutual Bank relating to contributions to savings bank industry political action committees. The revised draft comments suggest that the October memorandum violated a section of the Federal Election Campaign Act of 1971 (specifically, 2 U.S.C. § 441b(a)) and the FHLBB policy memorandum relating to that section (FHLBB T Memorandum #T-68, June 8, 1981).

The statutory section cited in the revised draft comments, 2 U.S.C. § 441b(a), provides that:

Attachment I

(2)

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It is unlawful . . . for any corporation . . . to make a contribution or expenditure in connection with any election [involving federal officeholders] . . . or any officer or director of any corporation . . . to consent to any contribution or expenditure by the corporation . . . prohibited by this section.

The terms "contribution or expenditure" are defined as including "any direct or indirect payment" to, among others, political action committees. 2 U.S.C. § 441b(b)(2). Although the statute plainly prohibits both direct and indirect contributions of corporate funds to political action committees, the statute also specifically permits a corporation to solicit its stockholders and its executive or administrative personnel for contributions to industry political action committees, subject to certain procedures. 2 U.S.C. § 441b(b)(4)(B), and § 441b(b)(3). Indeed, the expenditure of corporate funds for the solicitation of contributions to political action committees is specifically permitted by both the statute (2 U.S.C. § 441b(b)(2)(C)) and by the FHLBB policy memorandum (FHLBB T Memorandum #T-68, ¶ 1, POLITICAL ACTION COMMITTEES).

Because the statute and the T memorandum recognize that corporations may solicit contributions to political action committees from their employees, it may not be inferred from the fact that the October 1984 Mutual Bank memorandum sought funds for savings industry political action committees that the bank was seeking to make an indirect contribution of its own funds in violation of § 441b(a). The October 1984 memorandum makes no mention whatsoever of the use of corporate funds. Indeed literature from the political action committee, which had previously been sent to Mutual Bank officers in 1984, specifically states that contributions may not consist in whole or in part of bank funds. A copy of the brochure is Enclosure 2 to this letter. The present situation is not one in which employee contributions were being offset by matching "bonuses" or compensating payments from the bank to contributing employees. There is absolutely no basis for concluding that the October 1984 memorandum in any way constituted or encouraged an indirect contribution of corporate funds to the political action committees.

Officers were not coerced or unduly pressured into making contributions.

The revised draft comments state that the " . . . memorandum infers that it would be in the institution's officers' best interests to contribute to the PACs" The bank's policy is that, although the bank believes that it is in the best interest of the institution and of its individual officers as

members of the banking profession to contribute to industry political action committees, the ultimate decision whether or not to contribute is up to the individual officer, without reprisal or threat of any kind. In point of fact, the bank has never required, coerced, or intimidated any of its officers to contribute to any political action committee:

--No Mutual Bank representative has ever conducted a group meeting of employees to solicit funds or engaged in face-to-face personal solicitation. No representative of the bank has ever personally threatened or intimidated individual officers concerning contributions. The bank has never in any fashion advised any officer or employee that failure to contribute would result in any type of reprisal, discrimination, or adverse employment affect. No Mutual Bank employee has ever suffered any adverse employment consequence as a result of his or her decision not to make a contribution.

--In furtherance of its policy not to coerce contributions from bank officers, the bank maintained a practice of strict confidentiality for the names of all contributors, such that senior management was at no time aware of which officers gave and which officers did not. Bank officers were fully informed about the policy of confidentiality. The original solicitation memorandum in 1984, dated August 15, "encouraged" officers to make contributions and informed the officers that "[n]ames of contributors will be kept confidential." A copy of that memorandum is reproduced as Enclosure 3. The list of contributors referred to in the FHLBB revised draft comments is a list maintained in confidence by the campaign administrator for the purpose of keeping track of the checks until they were transmitted and allowing recapitulation of grand totals at the end of the campaign. Senior management never reviewed or had access to the list. ¹

1/ In practice, the assistant secretary who served as administrator for the contribution program at Mutual Bank received all of the contribution checks which officers chose to route through the bank, as opposed to mailing in directly. Although the checks were generally addressed to her boss, the bank's operations officer, his practice was to refer the checks, frequently in unopened envelopes, directly to her. She would then hold the checks, making note of them on a contemporaneous chronological log, until she had assembled a large enough group to transmit to the committee. She clearly understood from senior management of the bank, both the president and the vice-chairman, that they absolutely did not want to know the names

(Footnote Continued on Next Page)

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--Although the tone of the October 1984 memorandum is vigorous in seeking contributions, the memorandum was absolutely not intended to place a requirement upon each officer to contribute. The use of the word "must" was intended simply to convey a sense of urgency and importance in seeking support for matters of significance to the officers of the bank as members of the banking profession. The memorandum must be read in the context of the management style of its author, the bank president. He has consistently endeavored to encourage a strong sense of two-way give and take between junior officers and senior management. He has sought to encourage the view that while he is a person of strong opinions and direct communication, he desires and expects the same back to him from lower level managers. The philosophy which he has communicated to individual officers is that they are expected to stand up and speak their minds on management issues affecting the bank, that people would not be penalized for failing to "adhere to the party line," and that the bank would be a better and stronger institution as a result of such dynamics. It was against this background that the October memorandum was written.

--By objective criteria, the October 1984 memorandum was not viewed by bank officers as coercive. The overwhelming response of bank officers who received the memorandum was that, although some may have objected to the tone, they did not regard the memorandum as a threat or as a requirement that they contribute. Indeed, a number of officers who had given to the political action committees in prior years chose, after receiving the memorandum, not to give in 1984. Numerous other officers simply regarded the memorandum, having received reminder memos in earlier years, as nothing more than that. Statistical analysis reveals that the percentage of individuals contributing in response to the October reminder memorandum in 1984 was no larger than the percentage of individuals responding to a mild and bland boilerplate reminder memorandum in 1983. Indeed, the total contributions received in 1984 were less than in any prior year.

1/ (Footnote Continued From Previous Page)

of the individual contributors. This practice was strictly honored. Although the bank's operations officer was technically the coordinator for the solicitation program, he followed a general practice of referring all matters to the assistant secretary, and it was she who prepared the transmittal of the checks.

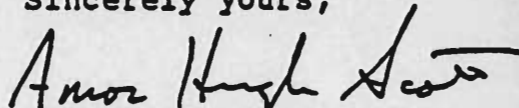
Conclusion

Mutual Bank has never made a direct or indirect contribution of corporate funds to any political action committee, and the October 1984 memorandum provides no basis for concluding that any violation of the provisions of 2 U.S.C. § 441b(a) proscribing contributions of corporate funds has occurred. The bank takes issue with any contrary suggestion in the revised draft comments.

The revised draft comment that the "... memorandum infers that it would be in the institution's officers' best interests to contribute to the PACs ...", to the extent that it suggests that officers were compelled to contribute, does not reflect either the bank policy or the intention with which the October 1984 memorandum was drafted and circulated. The bank's policy is to encourage but not require its officers to make contributions, and to hold the names of all officers who do make contributions in strict confidence. The bank does not believe that the October 1984 memorandum had the effect of in fact coercing officers to contribute. It certainly was not intended so to do.

As noted in the penultimate paragraph of the revised draft comments, this matter is presently under investigation by the United States Department of Justice. In view of the pendency of this investigation, the bank does not feel that further comment on this matter is appropriate until the investigation has been concluded. At that time, the bank will be happy to provide any further information or amplification to the FHLBB.

Sincerely yours,


Amos Hugh Scott

AHS/mlv
Enclosures (3)

Contributions to Political Action Committee

On October 26, 1984 President Keith G. Willoughby issued a memorandum to "All Officers of Mutual Bank" concerning their unacceptable response to a prior appeal to contribute to a political action committee (PAC's). The memorandum issued by President Willoughby is as follows:

Memorandum No. 429-84

To: All Officers of Mutual Bank
From: Keith G. Willoughby
Date: October 26, 1984

Several months ago, all of you received an appeal for contributions to the state and national political action committees of our industry. This week I learned that Mutual Bank officers have failed by a substantial margin to reach the goal on either, and in the case of the national Thriftpac, have not even reached the half-way mark. Even worse, only nineteen of the fifty-nine officers in the bank have contributed.

That is unacceptable. All of you are fully aware of the importance to this bank of the issues being voted on this year, particularly the state tax and the Central Fund dividend and, I hope none of you is so naive as to think that political contributions--even those from PAC's, despite all of the pious rhetoric--do not play a vital part in the progress of such matters. You must also know how active Gerry Mulligan and I have been in this area. Even if you give substantially to individual candidates, as Gerry and I do, you should, as officers of this bank, all support the PAC's.

Every single officer of this institution should--must--consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac. Please send your checks, not later than next Friday, to Dave Donald to be forwarded.

Attachment I

(7)

Enclosure 1

85040553691

7
It appears that the content of this memorandum conflicts with the guidelines and intent of FHLBB T Memorandum T-68. The FHLBB's memorandum prohibits contributions or expenditures by an institution in connection with an election for any political office, or convention or caucus held to select candidates for public office. These prohibitions of the Federal Election Campaign Act of 1971, as amended, 2 USC Section 441b apply to federal, state and local elections. A "contribution or expenditure" within the meaning of the Act includes any direct or indirect payments to organizations such as political action committees.

The statute also makes it unlawful for any officer or director to consent to any such contribution or expenditure (2 USC Section 441b(a)(1976)). The FHLBB's memorandum specifically notes the prohibition of contributions to groups, such as political action committees, which are to be used for political purposes.

While it is noted that such contributions are not made directly by the institution itself, the recent Humphrey's memorandum states that it would be in the institution's interest to contribute to the FHL's noted in his memorandum. This position is distinctly in conflict with the intent of FHLBB T Memorandum T-68 and should be forwarded for possible referral to the Federal Election Commission which has exclusive jurisdiction with respect to possible enforcement action.

It should also be noted that Prasad Humphrey's memorandum was somewhat dated in the Boston press. Adverse articles have appeared in November and

Attachment I

(8)

85040553692

December 1964 in both The Baton Herald and The Baton
Globe, newspapers. The articles were entitled "Bank
Takes Arms for Cash for PACS," "Break the Chain of
Intimidation," and "Bank Officers Chided for not Helping
PACS." A recent article dated December 19, 1964 in
The Baton Herald noted the fact that institution
personnel had been interviewed by the FBI
concerning the contribution solicitations.

It should also be noted that the bank maintained
a list of those donors who had contributed and
the amount of their contributions. Copies of both
relevant newspaper notices and the bank's list of
contributors are maintained in the examination
portfolios given.

Attachment I

(9)

85040553693

p. 2)	Janel M. Pavlska President Arlington Five Cents Savings Bank	Chairman
	Robert K. Sheridan President SBAM	Treasurer
	Kevin F. Kiley Director of Legislative and Regulatory Affairs SBAM	Assistant Treasurer
p. 8)	George P. Adams President Great Barrington Savings Bank	Trustee
p. 1)	Francis P. Brennan Chairman Union Warren Savings Bank	Trustee
p. 6)	Harold Cebot President Worcester County Institution for Savings	Trustee
p. 5)	Timothy J. Cotter President Fall River Five Cents Savings Bank	Trustee
p. 7)	Richard B. Covell President Northampton Institution for Savings	Trustee
p. 4)	Donald R. Eldridge President Abington Savings Bank	Trustee
p. 3)	Peter A. Horsee President Beverly Savings Bank	Trustee
p. 6)	John J. Jackson President Spencer Savings Bank	Trustee
p. 7)	William A. James President Springfield Institution for Savings	Trustee
p. 1)	Robert G. Lee President 1st American Bank for Savings	Trustee
p. 2)	Robert B. Nickerson President Winchester Savings Bank	Trustee
p. 2)	Thomas F. O'Connor President Medford Savings Bank	Trustee
p. 4)	Charles A. Pearce Chairman Quincy Savings Bank	Trustee
p. 5)	Donald A. Pope President Attleborough Savings Bank	Trustee
p. 3)	Robert H. Studley Chairman Eastern Savings Bank	Trustee

*Represents SBAM Geographic Group.

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MASSACHUSETTS
THRIFTPAC

50 Congress Street/Boston, MA 02109/(617) 742-7970

MASSACHUSETTS
THRIFTPAC

MASSACHUSETTS
THRIFTPAC

MASSACHUSETTS
THRIFTPAC

What is Massachusetts THRIFTPAC and why is it important?

Massachusetts THRIFTPAC is a multi-candidate political committee established under the provisions of state campaign finance laws. It is not affiliated with any political party nor any particular candidate or candidates. The concerns of the savings bank industry must be represented at all levels of government in order to affect those political decisions which could have the most dramatic impact on the future of our industry. Massachusetts THRIFTPAC, by combining the resources of hundreds of savings bankers, gives our industry a more effective voice in the political process.

Who determines the contribution policy of Massachusetts THRIFTPAC?

The contribution policy and other pertinent affairs of the committee are determined by a Board of Trustees, consisting primarily of savings bankers representing the various regions of the state.

Are there limits to the amounts which an individual may contribute to Massachusetts THRIFTPAC?

An individual may legally give up to a maximum of \$1,000 in any calendar year. Contributions are received from individual savings bankers, including officers, employees, trustees and operators, and other individuals connected with the savings bank industry. For general reference and possible guidance in determining your level of contribution, Massachusetts THRIFTPAC hopes to raise \$35,000 this upcoming year. An industry-wide contribution level of \$2 per \$1 million of bank assets would allow Massachusetts THRIFTPAC to more than realize its goal.

How do contributions consist in whole or in part of a savings bank's funds?

State law prohibits any direct or indirect corporate campaign contributions. Therefore, all contributions to Massachusetts THRIFTPAC represent the personal, voluntary contributions of individuals.

How does Massachusetts THRIFTPAC differ from NCSI THRIFTPAC?

Massachusetts THRIFTPAC was established for state elected offices and must, under law, remain separate from NCSI's THRIFTPAC which was established for federal elected offices. The law requires separate political action committees for federal and state campaign fund raising. Therefore, contributions must be separately made out and not commingled. However, Massachusetts THRIFTPAC does coordinate certain of its activities with NCSI's THRIFTPAC.

the minimum \$2 per \$1 million in bank assets were given to Massachusetts THRIFTPAC and 30% of this amount were given to NCSI's THRIFTPAC, the state PAC would realize its \$35,000 goal and the federal PAC would realize its goal in Massachusetts of \$10,000.

For example, individuals affiliated with a savings bank having \$200 million in assets following these advisory levels would send \$280 to Massachusetts THRIFTPAC in personal checks and, assuming the requisite authorization has been provided, would make out checks totaling \$120 to NCSI's THRIFTPAC. Massachusetts THRIFTPAC and NCSI's THRIFTPAC have an arrangement wherein savings banker contributions to the federal PAC can be forwarded through Massachusetts THRIFTPAC. In such a case it is important and the law requires that *separate* checks be made out to each PAC. We are strictly prohibited by law from dividing contributions and drawing a check to NCSI THRIFTPAC for federal political contributions.

How are Massachusetts THRIFTPAC contributions treated tax-wise?

Under federal tax laws, such contributions are eligible for the tax credit for all state and federal political contributions up to a maximum of \$50 credit individually or a \$100 credit on a joint return. To receive the benefits of the \$100 credit, at least \$200 in political contributions have to be reported in a joint tax return.

How are contributions to and from Massachusetts THRIFTPAC reported?

In accordance with state campaign finance laws, all contributions are reported to the Office of Campaign and Political Finance, with contributors giving \$15 or more reported by name. Actual contributions made by Massachusetts THRIFTPAC to individual candidates will be listed by candidates in the name of the committee.

The trustees and officers of Massachusetts THRIFTPAC would be delighted to provide to any interested savings bankers contributing to

Enclosed is my contribution of _____ for Massachusetts THRIFTPAC.

Checks should be made out to Massachusetts THRIFTPAC, and mailed to

Massachusetts THRIFTPAC, Room 515, 50 Congress St., Boston, Massachusetts, 02109.

All contributions must be accompanied by a complete listing of the individual contributors' home addresses.

Name _____

Home Address _____

Bank & Title _____

Attachment I

(11)

MEMORANDUM No. 307-84

TO: All Officers

RE: NCSI and SBAM THRIFTPACs

In this election year particularly, our support of candidates favorable to banking interests will be of crucial importance. If the political action committees established by the National and State Associations are to be effective, however, they need the help of all savings bankers.

We encourage you to support these committees and ask that 70% of your contribution be made to "Massachusetts THRIFTPAC" and 30% to "THRIFTPAC" (separate checks, please). A brochure from Massachusetts THRIFTPAC is enclosed and includes a contribution form for your use. No form is necessary for NCSI THRIFTPAC.

Your entire contribution should be forwarded to Dave Donald, who will act as coordinator for Mutual Bank. Names of contributors will be kept confidential.

If you have any question on either of these political action committees, please do not hesitate to contact one of us.

Thank you for your anticipated response to this important effort.

Keith G. Willoughby
Keith G. Willoughby

Gerald T. Mulligan
Gerald T. Mulligan

8/15/84

Enclosure 3

Attachment I
(12)

85040553696

FEDERAL
HOME LOAN
BANK
BOARD

MEMORANDUM

INTER-OFFICE COMMUNICATION

District One

OFFICE OF EXAMINATIONS AND SUPERVISION

FROM: Marvin L. Cagan

DATE : January 8, 1985

TO : Kevin M. McCarthy
Supervisory Agent

SUBJECT: Mutual Bank
Boston, Ma.

Docket No. 7740

The ongoing examination of Mutual Bank, FSB, Boston, Ma. has revealed a matter which is considered to be of supervisory concern. The following draft examination comment is provided since the conclusion of the current examination is not imminent.

Contributions to Political Action Committees

On October 26, 1984 President Keith G. Willoughby issued a memorandum to "All Officers of Mutual Bank" concerning their "unacceptable" response to a prior appeal to contribute to political action committees (PACs). The memorandum issued by President Willoughby is as follows:

Memorandum No. 429-84

To: All Officers of Mutual Bank
From: Keith G. Willoughby
Date: October 26, 1984

Several months ago, all of you received an appeal for contributions to the state and national political action committees of our industry. This week I learned that Mutual Bank officers have failed by a substantial margin to reach the goal on either, and in the case of the national Thriftpac, have not even reached the half-way mark. Even worse, only nineteen of the fifty-nine officers in the bank have contributed.

Attachment I
(13)

85040553697

Mutual Bank
January 8, 1983

That is unacceptable. All of you are fully aware of the importance to this bank of the issues being voted on this year, particularly the state tax and the Central Fund dividend and, I hope none of you is so naive as to think that political contributions--even those from PAC's, despite all of the pious rhetoric--do not play a vital part in the progress of such matters. You must also know how active Gerry Mulligan and I have been in this area. Even if you give substantially to individual candidates, as Gerry and I do, you should, as officers of this bank, all support the PAC's.

Every single officer of this institution should--must--consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac. Please send your checks, not later than next Friday, to Dave Donald to be forwarded.

8 5 3 6 9 8
It appears that the content of this memorandum conflicts with the guidelines and intent of FHLBB T Memorandum T-68. The FHLBB's memorandum prohibits contributions or expenditures by an institution in connection with an election for any political office, or convention or caucus held to select candidates for public office. These prohibitions of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. Section 441b, apply to federal, state and local elections. A "contribution or expenditure" within the meaning of the Act includes any direct or indirect payments to organizations such as political action committees.

8 5 0 4 0 5
The statute also makes it unlawful for any officer or director to consent to any such contribution or expenditure (2 U.S.C. Section 441b(a)(1976)). The FHLBB's memorandum specifically notes the prohibition of contributions to funds such as political action committees which are to be used for political purposes.

While it is noted that such contributions were not made directly by the institution itself, President Willoughby's memorandum infers that it would be in the institution's officers' best interests to contribute to the PACs noted in his memorandum. This position is definitely in conflict with the intent of FHLBB Memorandum T-68 and should be considered for possible referral to the Federal Election Commission which has exclusive jurisdiction with respect to possible enforcement action.

Attachment I
(14)

Mutual Bank
January 8, 1985

It should also be noted that President Willoughby's memorandum was somehow "leaked" to the Boston press. Adverse articles have appeared in November and December 1984 in both The Boston Herald and The Boston Globe newspapers. The articles were entitled "Banker Twists Arms for Cash for PACS", "Break the Chain of Intimidation", and "Bank Officers Chided for not Aiding PACS". A recent article dated December 19, 1984 in The Boston Herald noted the fact that institution personnel had been interviewed by the FBI concerning the contribution solicitations.

It should also be noted that the bank maintained a list of those officers who had contributed and the amount of their contributions. Copies of both relevant newspaper articles and the bank's list of contributors are maintained in the examination workpaper files.

Marvin L. Cagan

Marvin L. Cagan
Assistant District Director Operations

MLC/ms

Attachment I

(15)

85040553699

FEDERAL HOME LOAN BANK
OFFICE OF EXAMINATIONS AND SUPERVISION

MEMORANDUM

#T 68

TO: OES Professional Staff

June 8, 1981

FROM: L. David Taylor

Political Contributions
or Expenditures
by Savings and
Loan Associations

SYNOPSIS: PROHIBITIONS ON POLITICAL CONTRIBUTIONS OR EXPENDITURES
BY SAVINGS AND LOAN ASSOCIATIONS.

1. Federally - Chartered Associations.

The Office of Examinations and Supervision, after consultation with legal staff of the Federal Election Commission, has prepared this memorandum to describe and to emphasize the prohibitions on contributions or expenditures by federal savings and loans in connection with any election to any political office or in connection with any primary election or political convention or caucus held to select candidates for public office. These prohibitions of the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. Section 441b, apply to federal, state and local elections. A "contribution or expenditure," within the meaning of the Act, includes:

"any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value (except a loan of money by a national or state bank made in accordance with the applicable laws and regulations and in the ordinary course of business) to any candidate, campaign committee, or political party or organization in connection with any election..." (2 U.S.C. Section 441b(b)(2)(1976)).

The statute also makes it unlawful for any officer or director of a federal savings and loan association to consent to any contribution or expenditure (2 U.S.C. Section 441b(a)(1976)). The exception to when a loan of money, by a federally chartered depository institution, or a depository institution the deposits or accounts of which are insured by the Federal Savings and Loan Insurance Corporation, is not a contribution is found in 2 U.S.C. 431(8) (B)(vii).

Political Advertising

The Federal Election Commission has advised that prohibitions of the Act extend to all forms of political advertising by federal savings and loans including, but not limited to, the purchase of political dinner tickets and advertisements in political literature such as political party newsletters and political party convention programs.

Attachment I
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Bona Fide Loans

The term "contribution or expenditure" does not include a bona fide loan of money by a federal savings and loan made in accordance with applicable laws and regulations in the ordinary course of business. The current regulations on loans by a federal savings and loan under the Federal Election Campaign Act are 11 CFR 114.1(a) and 100.7(b)(ii). Association's involved in making these loans should be advised to review carefully these sections to ensure compliance.

Political Action Committees

Federal savings and loans are not permitted to make contributions to a separate segregated fund (frequently referred to as Political Action Committees) to be used for political purposes. However, the prohibitions do not apply to the payment by a federal savings and loan of expenses incurred for the establishment, administration, and solicitation of contributions to a fund of that same federal savings and loan. (2 U.S.C. Section 441b(b)(2)(C) and 11 CFR 114.1(a)(2)(iii) and 114.1(b)).

Enforcement of the Act

The Act gives the Federal Election Commission exclusive jurisdiction with respect to civil enforcement of its provisions. (2 U.S.C. Section 437c(b)(1) (1980)). The Federal Election Commission is empowered to seek civil penalties of up to \$5,000 or the amount of the violation, whichever is greater, or if the violation is knowing and willful, up to \$10,000 or double the amount of the violation, whichever is greater. If there is probable cause to believe that a violation is knowing and willful, the Federal Election Commission may refer the cases to the United States Attorney General for criminal prosecution (2 U.S.C. Section 437g(a)(5)(C)(1980)). Examiners who discover a political contribution or expenditure by an insured institution, should report this fact in the comment section of the examination report for consideration of a referral to the Federal Election Commission, and the Bank Board may also require the insured institution to demand reimbursement from the recipient of any illegal contribution or expenditure. If the Supervisory Agent determines that reimbursement is in order, the Agent's recommendation should be sent to the Regional Director.

Advisory Opinions

In an opinion dated October 20, 1980, the Office of General Counsel, of the Federal Home Loan Bank Board, stated that "The Commission has exclusive jurisdiction with respect to civil enforcement of the Act. (2 U.S.C. Section 437c(b)(1)(1980)). As such, the Commission has issued comprehensive implementing regulations, 11 C.F.R. Section 100.1 et seq. (1980), which apply to federal savings and loan associations. While violations of the Act and regulations may involve both civil and criminal penalties, the Commission has authority to issue advisory opinions with respect to their interpretation and application (Id., Part 112 (1980)). Section 112.5 of these regulations provides that anyone who relies upon an advisory opinion issued by the Commission and 'who acts in good faith in accordance with... (such) opinion' shall not be subject

Attachment I
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to any sanction provided by the Act. Hence, while this Office may express an opinion with respect to the legality of an association's particular activity, such an opinion would not be binding upon the Commission, and would not relieve the association from whatever liability that might result should the opinion prove to be wrong."

Thus, if association management inquires regarding the application of the Act, the Supervisory Agent or the examiner should advise the association that requests for advisory opinions may be submitted in writing concerning application of the Act, chapter 95 or chapter 96 of the Internal Revenue Code of 1954, or a rule or regulation prescribed by the Commission to a specific transaction or activity in which the requestor is involved or is acting as agent for a party involved. (2 U.S.C. Section 437f). All requests for advisory opinions should be directed to:

Federal Election Commission
Office of General Counsel
1325 K Street, N.W.
Washington, D.C. 20463

The Federal Election Commission provides a telephone information service which can be reached via its toll-free number - 800/424-9530.

2. State-Chartered Associations.

While the comments set forth above apply to federally-chartered associations in federal, state, and local elections, the same restrictions apply to state-chartered associations only with respect to federal elections. (2 U.S.C. 441b(a)(1976)). Since neither the Bank Board nor the Federal Savings and Loan Insurance Corporation has adopted any regulation relating to the political activities of state-chartered associations in connection with state and local elections, these subjects are governed solely by the laws of their chartering states.

L. David Taylor

L. David Taylor
Director

Distribution to state supervisory authorities to be made by District Directors-Examinations.

Attachment I
(18)

Washington, D.C. 20530

FEB 28 1985

Mr. Charles N. Steele
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C.

Re: Mutual Bank for Savings, et al

Dear Mr. Steele:

Pursuant to the Memorandum of Understanding between the Commission and the Criminal Division, this is to advise you that we have decided to seek a federal indictment in the District of Massachusetts charging the Mutual Bank for Savings and its Chief Executive Officer, Keith Willoughby, with violations of 2 U.S.C. §441b(B) (3) (C) in connection with the distribution of a coercive PAC solicitation to the Bank's executive and administrative personnel.

A copy of the offending solicitation is attached. When we have concluded the criminal case, we shall make the criminal investigative file available to the Commission to the extent permitted by Rule 6(e), F.R.Cr.P., to assist the Commission in pursuing whatever administrative sanctions it may consider appropriate under 2 U.S.C. §437g(a).

Sincerely,

Gerald E. McDowell

Gerald E. McDowell, Chief
Public Integrity Section
Criminal Division

Attachment

Attachments II

(19)

85040553703

PM
FEB 28 1985

Memorandum No. 429-84

12
RECEIVED

To: All Officers of Mutual Bank
From: Keith G. Willoughby
Date: October 26, 1984

45 FRANKLIN ST. BOSTON

NOV 01 1984

Department of Attorney General

Several months ago, all of you received an appeal for contributions to the state and national political action committees of our industry. This week I learned that Mutual Bank officers have failed by a substantial margin to reach the goal on either, and in the case of the national Thriftpac, have not even reached the half-way mark. Even worse, only nineteen of the fifty-nine officers in the bank have contributed.

That is unacceptable. All of you are fully aware of the importance to this bank of the issues being voted on this year, particularly the state tax and the Central Fund dividend and, I hope none of you is so naive as to think that political contributions--even those from PAC's, despite all of the pious rhetoric--do not play a vital part in the progress of such matters. You must also know how active Gerry Mulligan and I have been in this area. Even if you give substantially to individual candidates, as Gerry and I do, you should, as officers of this bank, all support the PAC's.

Every single officer of this institution should--must--consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac. Please send your checks, not later than next Friday, to Dave Donald to be forwarded.

Attachment II

(20)

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United States Attorney
District of Massachusetts

05 MAR 21 1985 18:44

1107 J.W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

March 15, 1985

PM 139
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Charles N. Steele, General Counsel
Federal Elections Commission
1325 K Street, N.W.
Washington, D.C. 20463

Dear Charlie:

Enclosed is a copy of the Mutual Bank press release, Information,
and Plea Agreement.

Sincerely,

Bill

WILLIAM F. WELD
United States Attorney

Enclosures

WFW:efb

Attachment III
(21)

85040553705



United States Attorney
District of Massachusetts

1107 J.W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

March 8, 1985

PRESS RELEASE

BOSTON ... The United States filed criminal charges today against a Massachusetts savings bank, charging it with violating the Federal Election Campaign Act in soliciting contributions to a federal political action committee (PAC).

United States Attorney William F. Weld said the government alleges that Mutual Bank, fsb, 45 Franklin Street, Boston, solicited contributions from its own officers for Thriftpac, the PAC of the savings bank industry, without informing the officers of their absolute right to refuse to give, as required by the Federal Election Campaign Act. The Bank is alleged to have taken this action through Keith Willoughby, the Bank's President, Chairman of the Board, and Chief Executive Officer.

The Information charges that on October 26, 1984, Willoughby, as an officer and agent of the bank, sent a memorandum to "All Officers of Mutual Bank," stating that the bank's officers had failed to reach the Thriftpac "goal."

Attachment III
(22)

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The memorandum stated,

"Even worse, only nineteen of the fifty-nine officers in the bank have contributed. That is unacceptable. ... [Y]ou should, as officers of this bank, all support the PAC's.

Every single officer of this institution should -- must -- consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac. Please send your checks, not later than next Friday, to [the Bank's Thriftpac Coordinator] to be forwarded."

(Emphasis in original.)

Weld said the Federal Election Campaign Act was broadly written to prohibit any possible coercion in PAC solicitation, so that individual decisions to contribute can be made voluntarily and without fear of any reprisal. The provision allegedly violated here is a criminal misdemeanor, carrying a maximum penalty of one year imprisonment or a \$25,000 fine, or both.

Weld said that the case initially came to the attention of law enforcement authorities as a result of newspaper accounts of complaints by bank officers who had received the memorandum. The matter was investigated by special agents of the Federal Bureau of Investigation. The prosecution is being handled for the government by Assistant U.S. Attorney, Daniel I. Small, who was appointed in 1984 to serve a two-year term as the Federal Elections Officer for the District of Massachusetts.

Attachment III
(23)

The case has been assigned to United States Magistrate Lawrence P. Cohen, who has scheduled a hearing for Monday, March 11, 1985, at 1:00 p.m. Under the terms of a plea agreement filed with Magistrate Cohen by the parties, Mutual Bank has agreed to plead guilty to the charge, and the United States has agreed to recommend a criminal fine of \$17,000 as the appropriate disposition of the matter.

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Attachment III
24

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)

v.)

MUTUAL BANK, fsb)

CRIMINAL NO.

VIOLATIONS:

2 U.S.C. §441b(b)(3)(C)

2 U.S.C. §437g(d)

I N F O R M A T I O N

The United States Attorney charges as follows:

At all times material hereto:

1. The MUTUAL BANK fsb, defendant herein, was a banking institution organized under the banking laws of the Commonwealth of Massachusetts and chartered by the Federal Home Loan Bank Board.

2. Keith Willoughby was the Chairman of the Board and the President of the defendant MUTUAL BANK.

3. Federal law prohibited corporations, including MUTUAL BANK, from making political contributions. However, it did allow, under certain conditions, the solicitation of individual employees for voluntary contributions to political action committees.

4. The National Council of Savings Institutions (NCSI) was a trade association, the membership of which consisted of banking institutions throughout the United States. The purpose of NCSI was to promote the interests of the thrift industry, and to influence the nomination and election of candidates for elective office whose views were favorable to the thrift industry.

Attachment III
(25)

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5. "Thriftpac" was a political action committee organized pursuant to 2 U.S.C. §§432 and 433, Federal Election Campaign Act (FECA), and affiliated with NCSI pursuant to 2 U.S.C. §441b(b)(4), FECA, to solicit voluntary contributions from the executive and administrative personnel of member banks, and to recontribute the funds thus raised to influence the nomination and election of candidates for various federal offices.

6. On or about May 10, 1984, the defendant MUTUAL BANK, acting through its officer and agent Keith Willoughby, authorized Thriftpac to solicit voluntary political contributions from the executive and administrative personnel of the said MUTUAL BANK, pursuant to 2 U.S.C. §441b(b)(4)(D), FECA.

7. On or about August 15, 1984, an internal Bank Memorandum was sent to "All Officers" soliciting contributions to Thriftpac.

8. On or about October 26, 1984, Willoughby sent another Memorandum to "All Officers of Mutual Bank." This memorandum referred to the August memorandum, and then stated that the Bank's officers had failed to reach the Thriftpac "goal." The October memorandum then stated, "Even worse, only nineteen of the fifty-nine officers in the bank have contributed. That is unacceptable. ... you should, as officers of this bank, all support the PAC's. Every single officer of this institution should -- must -- consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac. Please send your checks, not later than next Friday, to [the Bank's Thriftpac Coordinator] to be forwarded."

Attachment III
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9. The violations of the FECA described herein involved the making and receipt of contributions which aggregated in excess of \$250.00 during the calendar year of 1984.

10. On or about October 26, 1984, at Boston and within the District of Massachusetts, the defendant,

MUTUAL BANK,

acting through its officer, agent and employee Keith Willoughby, knowingly and willfully solicited contributions to Thriftpac from employees of the aforesaid MUTUAL BANK, without informing said employees, at the time of the solicitation, of their right to refuse to make the contribution thus solicited without fear of any reprisal.

All in violation of Title 2, United States Code, Section 441b(b)(3)(C) and Title 2, United States Code, Section 437g(d).

WILLIAM F. WELD
United States Attorney

DANIEL I. SMALL
Assistant U.S. Attorney

Attachment III
(27)

85040553711

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

MUTUAL BANK, fsb

CRIMINAL NO.

NOTICE OF PLEA AGREEMENT

Pursuant to Fed. R. Crim. P. 11(e)(2), the parties
hereby give the Court notice of a plea agreement in this
case, which agreement is attached hereto.

For the United States of America,

DANIEL I. SMALL
Assistant U.S. Attorney

For the defendant,

Amos Hugh Scott
AMOS HUGH SCOTT
Counsel for Mutual Bank, fsb

Attachment III
(28)

85040553712



United States Attorney
District of Massachusetts

1107 J.W. McCormack Post Office and Courthouse
Boston, Massachusetts 02109

March 6, 1985

Amos Hugh Scott, Esq.
Choate, Hall & Stewart
Exchange Place
53 State Street
Boston, MA 02109

Dear Mr. Scott:

I am writing to confirm our agreement of today concerning matters pertaining to Mutual Bank, fsb.

The United States, by and through its undersigned attorneys, and Mutual Bank, fsb, by and through its undersigned attorney and Chairman of the Board of Directors, hereby enter into the following agreements:

(1) Mutual Bank, fsb, agrees to plead guilty to a one count Information (copy attached) charging it with violation of Title 2 U.S.C. §§441b(b)(3)(C) and 437g(d).

(2) The United States agrees to recommend to the sentencing judge a \$17,000 fine as the appropriate sentence against Mutual Bank on this matter.

(3) The United States agrees to bring no criminal charges, other than the present Information, against Mutual Bank or its trustees, officers, employees and agents on account of any violations of Title 2 of the United States Code regarding the solicitation of contributions for bank industry political action committees, or based upon any matter which was the subject of the investigation leading to the present Information, all through the date of this agreement.

(4) The United States Attorney views the disposition contained in this letter as constituting a full and appropriate settlement of all aspects of the matter which is the subject of this Information.

Attachment III
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The above constitutes the entire agreement between the parties. No additional agreements exist, and no further agreements will exist unless agreed to in writing.

Sincerely,

William F. Weld

WILLIAM F. WELD
United States Attorney

Daniel I. Small

DANIEL I. SMALL
Assistant U.S. Attorney

Agreed to for Mutual Bank, fsb:

Date: March 6, 1985

Keith G. Willoughby
Keith G. Willoughby
Chairman of the Board and
President

Date: March 6, 1985

Amos Hugh Scott
Amos Hugh Scott
Counsel for Mutual Bank, fsb

Attachment III
(30)

85040553714

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. _____

RESPONDENT Mutual Bank
Keith G. Willoughby

SUMMARY OF ALLEGATIONS

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An examination of the Mutual Bank, Boston, Massachusetts, by the Federal Home Loan Bank Board ("FHLBB") revealed a potential violation of 2 U.S.C. § 441b. The potential violation centers on a memorandum issued by the President of Mutual Bank, Keith G. Willoughby, to "All Officers of Mutual Bank" concerning their "unacceptable" response to a prior appeal to contribute to Massachusetts Thrift PAC and Thrift PAC. The memorandum stated, in part, that "[e]very single officer of this institution should -- must -- consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac." In addition, the FHLBB examiner noted in his report, the bank maintained a list of those officers who had contributed to the political action committees and the amount of their contributions.

FACTUAL BASIS AND LEGAL ANALYSIS

2 U.S.C. § 441b(b) (3) (C) prohibits any person soliciting an employee for a contribution to fail to inform such employee, at the time of the solicitation, of his right to refuse to so contribute without any reprisal.

2 U.S.C. § 441b(b) (3) (A) prohibits the political committee of a trade association from utilizing money secured by physical force, job discrimination, financial reprisals, or the threat of physical force, job discrimination, or financial reprisal; or by

Attachment IV
(31)

dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment.

The October 26, 1984, memorandum from Mr. Willoughby to all officers of the Mutual Bank fails to inform the officers of their right to refuse to contribute without fear of reprisal. In fact, the language of the memorandum, its tone, and the fact that the bank kept a list of who contributed to the political action committees and how much was contributed, suggests the prospect of reprisals for not making a contribution. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, violated 2 U.S.C. § 441b(b)(3)(C).^{*/}

^{*/} On March 11, 1985, a plea agreement was filed in the U.S. District Court for the District of Massachusetts in which Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, admitted guilt to a criminal violation of 2 U.S.C. § 441b(b)(3)(C).

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85040553716

GENERAL COUNSEL'S FACTUAL AND LEGAL ANALYSIS

MUR NO. _____

RESPONDENT Mutual Bank
Keith G. Willoughby

SUMMARY OF ALLEGATIONS

85040553717
An examination of the Mutual Bank, Boston, Massachusetts, by the Federal Home Loan Bank Board ("FHLBB") revealed a potential violation of 2 U.S.C. § 441b. The potential violation centers on a memorandum issued by the President of Mutual Bank, Keith G. Willoughby, to "All Officers of Mutual Bank" concerning their "unacceptable" response to a prior appeal to contribute to Massachusetts Thrift PAC and Thrift PAC. The memorandum stated, in part, that "[e]very single officer of this institution should -- must -- consider it a part of his or her position to contribute to both Mass. Thriftpac and Thriftpac." In addition, the FHLBB examiner noted in his report, the bank maintained a list of those officers who had contributed to the political action committees and the amount of their contributions.

FACTUAL BASIS AND LEGAL ANALYSIS

2 U.S.C. § 441b(b)(3)(C) prohibits any person soliciting an employee for a contribution to fail to inform such employee, at the time of the solicitation, of his right to refuse to so contribute without any reprisal.

2 U.S.C. § 441b(b)(3)(A) prohibits the political committee of a trade association from utilizing money secured by physical force, job discrimination, financial reprisals, or the threat of physical force, job discrimination, or financial reprisal; or by

Attachment IV
(33)

dues, fees, or other monies required as a condition of membership in a labor organization or as a condition of employment.

The October 26, 1984, memorandum from Mr. Willoughby to all officers of the Mutual Bank fails to inform the officers of their right to refuse to contribute without fear of reprisal. In fact, the language of the memorandum, its tone, and the fact that the bank kept a list of who contributed to the political action committees and how much was contributed, suggests the prospect of reprisals for not making a contribution. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, violated 2 U.S.C. § 441b(b) (3) (C).*/

*/ On March 11, 1985, a plea agreement was filed in the U.S. District Court for the District of Massachusetts in which Mutual Bank and Keith G. Willoughby, as President of Mutual Bank, admitted guilt to a criminal violation of 2 U.S.C. § 441b(b) (3) (C).

Attachment IV
(34)

85040553718



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Keith G. Willoughby, President
Mutual Bank
45 Franklin Street
Boston, Massachusetts 02110

RE: MUR

Dear Mr. Willoughby:

On , 1985, the Federal Election Commission determined that there is reason to believe that Mutual Bank and you, as President of Mutual Bank, violated 2 U.S.C. § 441b(b)(3)(C), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The General Counsel's factual and legal analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials which you believe are relevant to the Commission's consideration of this matter. Please submit any such materials within ten days of your receipt of this letter.

In the absence of any additional information which demonstrates that no further action should be taken against the Bank and you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation. Of course, this does not preclude the settlement of this matter through conciliation prior to a finding of probable cause to believe if so desired. See 11 C.F.R. § 111.18(d).

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

The investigation now being conducted will be confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A),

Attachment IV
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Keith G. Willoughby
Page 2

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 George Denougeot, the staff member assigned to this matter, at (202) 523-4000.

Sincerely,

John Warren McGarry
Chairman

Enclosures

General Counsel's Factual and Legal Analysis
Procedures
Designation of Counsel Statement

Attachment V

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FEDERAL ELECTION COMMISSION

1125 K STREET N.W.
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 1998

Date Filmed 10/12/25 Camera No. ---3

Cameraman AS