



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4425

DATE FILMED 2397 CAMERA NO. 4

CAMERAMAN Ima

97043774068

## REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: MAR 21 1996

ANALYST: TODD SCHUMACHER

## I. COMMITTEE:

Gordon Smith for U.S. Senate  
Committee, Inc. (C00306183)  
Greg Niedermeyer, Treasurer  
5285 SW Meadows Road, Suite 181  
Lake Oswego, OR 97035

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

## III. BACKGROUND:

## Failure to File Forty-Eight Hour Notifications

Gordon Smith for U.S. Senate Committee, Inc. ("the Committee") has failed to file one (1) 48-Hour notification for a draw on a line of credit, guaranteed by the candidate, totalling \$100,000 prior to the 1995 Special Primary Election.

The candidate was involved in the 1995 Senate Special Primary Election held on December 5, 1995. Prior Notice was sent to the Committee on October 30, 1995 (Attachment 2). The Notice includes a section titled "48 Hour Notices on Contributions". This section reads "Notices are required if the committee receives contributions (including contributions and loans from the candidate's personal funds; and endorsements or guarantees of bank loans) of \$1,000 or more, during the period of November 16 through December 2. The notices must reach the appropriate federal and state filing offices within 48 hours of the committee's receipt of the contribution(s)."

Schedules A and C-1 of the 1995 12 Day Pre-General Report indicate that the Committee failed to file one (1) 48-Hour Notice for a draw on a line of credit, guaranteed by the candidate, received during the aforementioned period

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(Attachment 3).\* The following is the draw on the line of credit for which a 48-Hour Notices was not filed:

<u>Contributor Name</u> (as reported by the Committee)	<u>Date</u>	<u>Amount</u>
Senator Gordon H. Smith (line of credit from United States National Bank of Oregon)	11/28/95	\$100,000

On January 30, 1996, a Request for Additional Information ("RFAI") was sent to the Committee (Attachment 4). The RFAI notes on an informational basis that the Committee may have failed to file one or more of the required 48-Hour Notices for "last minute" contributions of \$1,000 or more. The Notice request the Committee to review their procedures for checking contributions received during the aforementioned time period. In addition, the Notice states that although the Commission may take legal steps, any response would be taken into consideration.

The Committee's February 13, 1996 response (Attachment 5) states that their review of records determined that only one (1) 48-Hour Notice was not timely filed. However, the response does not specifically address the failure to file a 48-Hour Notice for the \$100,000 draw on the line of credit. The response also includes copies of facsimile confirmation receipts from the Secretary of the Senate for 48-Hour Notices filed during the period and FEC Forms 6, none of which discloses a 48-Hour Notice filed for the \$100,000 draw on the line of credit.

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\*Because reports should not include activity for more than one calendar year, committees were instructed on the Special Election Report Prior Notice to file the 12 Day Pre-General Report on two forms. One form was to cover 11/16/95-12/31/95 and be labeled "Year End Report". The other form was to cover 1/1/96-1/10/96 and be labeled "Pre-General Report".

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## CANDIDATE/COMMITTEE/DOCUMENT

OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY GENERAL	DISBURSEMENTS PRIMARY GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
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CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY GENERAL	DISBURSEMENTS PRIMARY GENERAL	COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
SMITH, GORDON HAROLD	SENATE	REPUBLICAN PARTY		OREGON	1995 ELECTION	ID# 96OR00094	
1. STATEMENT OF CANDIDATE							
1995 STATEMENT OF CANDIDATE					14SEP95	2	95SEN/009/2187
1996 STATEMENT OF CANDIDATE - AMENDMENT					5MAR96	2	96SEN/006/2055
2. PRINCIPAL CAMPAIGN COMMITTEE							
GORDON SMITH FOR U S SENATE COMMITTEE INC					ID #C00306183	SENATE	
1995 STATEMENT OF ORGANIZATION					14SEP95	2	95SEN/009/2189
STATEMENT OF ORGANIZATION - AMENDMENT					20CT95	3	95SEN/009/3414
48 HOUR CONTRIBUTION NOTICE					20NOV95	2	95SEN/010/1213
48 HOUR CONTRIBUTION NOTICE					20NOV95	2	95SEN/010/1210
48 HOUR CONTRIBUTION NOTICE					20NOV95	2	95SEN/010/1207
48 HOUR CONTRIBUTION NOTICE					21NOV95	3	95SEN/010/3145
48 HOUR CONTRIBUTION NOTICE					27NOV95	3	95SEN/010/3240
48 HOUR CONTRIBUTION NOTICE					27NOV95	3	95SEN/010/3243
48 HOUR CONTRIBUTION NOTICE					27NOV95	3	95SEN/010/3246
48 HOUR CONTRIBUTION NOTICE					29NOV95	2	95SEN/010/3402
48 HOUR CONTRIBUTION NOTICE					1DEC95	3	95SEN/010/3474
48 HOUR CONTRIBUTION NOTICE					1DEC95	3	95SEN/010/3471
48 HOUR CONTRIBUTION NOTICE					4DEC95	3	95SEN/010/3487
48 HOUR CONTRIBUTION NOTICE					4DEC95	4	95SEN/010/3483
48 HOUR CONTRIBUTION NOTICE					5DEC95	4	95SEN/010/3526
STATEMENT OF ORGANIZATION - AMENDMENT					7DEC95	2	95SEN/010/3647
48 HOUR CONTRIBUTION NOTICE					7DEC95	3	95SEN/010/3567
REQUEST FOR ADDITIONAL INFORMATION					16NOV95 -31DEC95	10	96FEC/020/0032
PRE-SPECIAL			1,632,594	1,584,489	1JUL95 -15NOV95	140	95SEN/010/1911
PRE-SPECIAL - AMENDMENT			-	-	1JUL95 -15NOV95	16	95SEN/011/0147
PRE-SPECIAL - AMENDMENT			1,633,636	1,585,530	1JUL95 -15NOV95	28	96SEN/001/0783
REQUEST FOR ADDITIONAL INFORMATION					1JUL95 -15NOV95	3	95FEC/009/4562
YEAR-END			1,477,790	1,515,541	16NOV95 -31DEC95	170	96SEN/001/0811
YEAR-END - AMENDMENT			-	-	16NOV95 -31DEC95	93	96SEN/006/0369
YEAR-END - AMENDMENT			-	-	16NOV95 -31DEC95	1	96FEC/030/0737
1996 48 HOUR CONTRIBUTION NOTICE					16JAN96	5	96SEN/001/0293
48 HOUR CONTRIBUTION NOTICE					16JAN96	9	96SEN/001/0271
48 HOUR CONTRIBUTION NOTICE					16JAN96	6	96SEN/001/0286
48 HOUR CONTRIBUTION NOTICE					16JAN96	4	96SEN/001/0281
48 HOUR CONTRIBUTION NOTICE					17JAN96	4	96SEN/001/0410
48 HOUR CONTRIBUTION NOTICE					18JAN96	13	96SEN/001/0480
48 HOUR CONTRIBUTION NOTICE					18JAN96	5	96SEN/001/1052
48 HOUR CONTRIBUTION NOTICE					19JAN96	5	96SEN/001/1159
48 HOUR CONTRIBUTION NOTICE					19JAN96	5	96SEN/001/1196
48 HOUR CONTRIBUTION NOTICE					22JAN96	6	96SEN/001/1207
48 HOUR CONTRIBUTION NOTICE					22JAN96	4	96SEN/001/1202
48 HOUR CONTRIBUTION NOTICE					22JAN96	3	96SEN/001/1438
48 HOUR CONTRIBUTION NOTICE					23JAN96	5	96SEN/001/1467
48 HOUR CONTRIBUTION NOTICE					24JAN96	2	96SEN/001/1537

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CANDIDATE/COMMITTEE/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS		DISBURSEMENTS		COVERAGE DATES	# OF PAGES	MICROFILM LOCATION
			PRIMARY	GENERAL	PRIMARY	GENERAL			

48 HOUR CONTRIBUTION NOTICE							26JAN96	24	96SEN/001/1696
48 HOUR CONTRIBUTION NOTICE							26JAN96	2	96SEN/001/1818
48 HOUR CONTRIBUTION NOTICE							29JAN96	5	96SEN/001/1807
48 HOUR CONTRIBUTION NOTICE							29JAN96	4	96SEN/001/1813
STATEMENT OF ORGANIZATION - AMENDMENT							5MAR96	2	96SEN/006/2057
PRE-SPECIAL				614,692		609,179	1JAN96 -10JAN96	71	96SEN/001/0981
PRE-SPECIAL - AMENDMENT				-		-	1JAN96 -10JAN96	46	96SEN/006/0323
POST-SPECIAL			917,242		904,053		11JAN96 -19FEB96	153	96SEN/006/1415
REQUEST FOR ADDITIONAL INFORMATION							11JAN96 -19FEB96	13	96FEC/033/4141
REQUEST FOR ADDITIONAL INFORMATION							1JAN96 -10JAN96	12	96FEC/020/0044

TOTAL			917,242	3,726,118	904,053	3,710,250		916	TOTAL PAGES
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3. AUTHORIZED COMMITTEES

OREGON SPECIAL WINNERS ACCOUNT (FKA U S SENATE CNTE)						ID #C00308064	SENATE		
1995 STATEMENT OF ORGANIZATION						2NOV95		2	95SEN/010/1063
STATEMENT OF ORGANIZATION - AMENDMENT						6DEC95		3	96SEN/001/1229
YEAR-END			22,000		22,000	16NOV95 -31DEC95		7	96SEN/001/1232
1996 TERMINATION APPROVAL						2FEB96		2	96FEC/028/1109
PRE-SPECIAL - TERMINATED				0		0 1JAN96 -10JAN96		4	96SEN/001/1239

TERMINATED

18 TOTAL PAGES

4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN

18 AUTH TOT PAGES

ALL REPORTS HAVE BEEN REVIEWED.

ENDING CASH-ON-HAND AS OF 2/19/96:

\$29,058.36.

OUTSTANDING DEBTS AND OBLIGATIONS:

\$3,030,808.85.

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# SPECIAL ELECTION REPORT NOTICE

## FEDERAL ELECTION COMMISSION

OREGON SPECIAL ELECTIONS  
Senatorial Committees

October 30, 1995

**FOR COMMITTEES ONLY INVOLVED IN THE SPECIAL PRIMARY (12/5)**

REPORT	REPORTING PERIOD*	REG./CERT. MAILING DATE**	FILING DATE
Pre-Primary	07/01/95 - 11/15/95	11/18/95	11/20/95
	----48 Hour Notices----		
Year-End	11/16/95 - 12/31/95	01/31/96	01/31/96

**FOR COMMITTEES INVOLVED IN THE SPECIAL PRIMARY (12/5) AND  
SPECIAL GENERAL (01/30)**

REPORT	REPORTING PERIOD*	REG./CERT. MAILING DATE**	FILING DATE
Pre-Primary	07/01/95 - 11/15/95	11/18/95	11/20/95
	----48 Hour Notices----		
Pre-General**** (1995 Activity)	11/16/95 - 12/31/95	01/16/96***	01/18/96
Pre-General (1996 Activity)	01/01/96 - 01/10/96	01/16/96***	01/18/96
	----48 Hour Notices----		
Post-General	01/11/96 - 02/19/96	02/29/96	02/29/96

**WHO MUST FILE**

Principal campaign committees of congressional candidates (including unopposed candidates) who seek nomination in the Oregon Special Election must file all required reports and notices. If the campaign has more than one authorized committee(s), in addition to the principal campaign committee, the principal campaign committee must also file a consolidated report on Form 32.

\*These dates indicate the beginning and the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered and, if applicable, before the individual became a candidate.

\*\*Reports sent registered or certified mail must be postmarked by the mailing date; otherwise, they must be received by the filing date.

\*\*\*The date has been adjusted because the computed date would have fallen on a Federal holiday.

\*\*\*\*Because reports should not include activity for more than one calendar year, committees should file the Pre-General Report on two forms. One form should cover 11/16/95 - 12/31/95 and be labeled "Year-End Report." The other form should cover 1/1/96 - 1/10/96 and be labeled "Pre-General Report." The filing of two forms satisfies both Pre-General and Year-End filing requirements.

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**48 HOUR NOTICES ON CONTRIBUTIONS**

Notices are required if the committee receives contributions (including contributions and loans from the candidate's personal funds; and endorsements or guarantees of bank loans) of \$1,000 or more, during the period:

Primary: 11/16/95 - 12/02/95; and General: 01/11/96 - 01/27/96

The notices must reach the appropriate federal and state filing offices within 48 hours of the committee's receipt of the contribution(s).

**PARTY COMMITTEES AND PACS**

Party committees and PACs not filing monthly which support candidates in the Oregon Special Elections also have special reporting responsibilities. Please share this reporting calendar with committees supporting your candidate.

**LABEL**

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

**COMPLIANCE**

Treasurers of political committees are responsible for filing all reports on time. Failure to do so is subject to enforcement action. Committees filing illegible reports or using non-FEC forms (except for FEC approved computer generated forms) will be required to refile.

FOR INFORMATION, CALL: 800/424-9530 or 202/219-3420

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**SCHEDULE A ITEMIZED RECEIPTS FROM NOVEMBER 14, 1995 THROUGH DECEMBER 31, 1995**

Page 1 of 1

Loans Made or Guaranteed by the Candidate

For Line Number 12(a)

Any information reported from each Report and Statement may not be used by any person for the purpose of soliciting contributions or for any other purpose, other than the use and disclosure of any political committee to which contributions from such a committee.

**NAME OF COMMITTEE (in full)**  
Gordon Smith for U. S. Senate

Full Name, Mailing  
Address, and ZIP Code

Name of Employer/  
Occupation

Date (month,  
day, year)

Amount of Cash  
Receipt this Period

Senator Gordon H. Smith  
1101 Skyline Drive  
Pendleton, OR 97801

12/28/95

\$100,000.00

Receipt for: General

Aggregate Year-to-Date:

\$1,725,000.00

Senator Gordon H. Smith  
1101 Skyline Drive  
Pendleton, OR 97801

12/12/95

\$100,000.00

Receipt for: General

Aggregate Year-to-Date:

\$1,725,000.00

Senator Gordon H. Smith  
1101 Skyline Drive  
Pendleton, OR 97801

12/5/95

\$150,000.00

Receipt for: General

Aggregate Year-to-Date:

\$1,725,000.00

Senator Gordon H. Smith  
1101 Skyline Drive  
Pendleton, OR 97801

11/28/95

\$100,000.00

Receipt for: Primary

Aggregate Year-to-Date:

\$1,725,000.00

Senator Gordon H. Smith  
1101 Skyline Drive  
Pendleton, OR 97801

11/21/95

\$55,378.00

Receipt for: Primary

Aggregate Year-to-Date:

\$1,725,000.00

Total This Period

\$505,378.00

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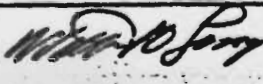
960200



SCHEDULE C-1  
Federal Election Commission  
Washington, D.C. 20463Supplementary for information  
found on Page 1 of Schedule C

## LOANS AND LINES OF CREDIT FROM LENDING INSTITUTIONS

NAME OF COMMITTEE (IN FULL) Gordon Smith for U. S. Senate		FEC IDENTIFICATION NUMBER C00306183	
FULL NAME, MAILING ADDRESS AND ZIP CODE OF LENDING INSTITUTION (BLOCK) United States National Bank of Oregon P.O. Box 4112 T-4 Portland, Oregon 97208		AMOUNT OF LOAN \$2,000,000.00	INTEREST RATE (APR) 8.75 (USBO)
		DATE INCURRED OR ESTABLISHED 9-26-95 increased 10-31-95	DATE DUE 1-30-95 Rate
A. Has loan been restructured? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, date originally incurred: _____			
B. If line of credit, amount of this draw: \$100,000.00 ; total outstanding balance: \$1,250,000.00 as of 11-28-95			
C. Are other parties secondarily liable for the debt incurred? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes (Endorsers and guarantors must be reported on Schedule C.)			
D. Are any of the following pledged as collateral for the loan: real estate, personal property, goods, negotiable instruments, certificates of deposit, chattel papers, stocks, accounts receivable, cash on deposit, or other similar traditional collateral? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, specify: _____ What is the value of this collateral? _____			
Does the lender have a perfected security interest in it? <input type="checkbox"/> No <input type="checkbox"/> Yes			
E. Are any future contributions or future receipts of interest income, pledged as collateral for the loan? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes If yes, specify: _____ What is the estimated value? _____			
A depository account must be established pursuant to 11 CFR 100.7(b)(11)(i)(B) and 100.8(b)(12)(i)(B). Date account established: 9-12-95 U. S. Bank of Oregon, 2nd & Columbia Branch Location of account: 1340 SW Second Avenue, Portland, OR 97201			
F. If neither of the types of collateral described above was pledged for this loan, or if the amount pledged does not equal or exceed the loan amount, state the basis upon which this loan was made and the basis on which it assures repayment. Historical and anticipated earnings as president of Smith Frozen Foods and/or sale of personal assets.			
G. COMMITTEE TREASURER		DATE	
TYPED NAME Gregory E. Niedermeyer		SIGNATURE  1-16-96	
H. Attach a signed copy of the loan agreement.			
I. TO BE SIGNED BY THE LENDING INSTITUTION:			
I. To the best of this institution's knowledge, the terms of the loan and other information regarding the extension of the loan are accurate as stated above.			
II. The loan was made on terms and conditions (including interest rate) no more favorable at the time than those imposed for similar extensions of credit to other borrowers of comparable credit worthiness.			
III. This institution is aware of the requirement that a loan must be made on a basis which assures repayment, and has complied with the requirements set forth at 11 CFR 100.7(b)(11) and 100.8(b)(12) in making this loan.			

AUTHORIZED REPRESENTATIVE U. S. Bank of Oregon 	TITLE WILLIAM H. LONG VICE PRESIDENT	DATE 16 Jan 96
TYPED NAME	SIGNATURE	



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RQ-2

JAN 30 1996

Greg Niedermeyer, Treasurer  
Gordon Smith for U.S. Senate  
5285 SW Meadows Rd.  
Suite 181  
Lake Oswego, OR 97035

Identification Number: C00306183

Reference: 12 Day Pre-General Report (11/16/95-12/31/95)

Dear Mr. Niedermeyer:

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

-Schedule A of your report discloses contributions which appear to exceed the limits set forth in the Act. Copies of some, but not all, of the apparent excessive contributions are attached for your information. You should conduct a review of all of your contributions to determine the rest of the excessives that your committee may have received. As you check for additional excessives, you should review the committee's procedures for handling the receipt of contributions.

An individual or a political committee other than a qualified multicandidate committee may not make a contribution to a candidate for federal office in excess of \$1,000 per election. A qualified multicandidate committee may not make a contribution to a candidate for federal office in excess of \$5,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (e) and (k))

Should your review determine that contributions were not completely or correctly reported, you should amend your original report using the correct information. If the contributions exceed the limits, you should either refund to the donor the amount in excess or get the donor to redesignate and/or reattribute the excessive amount in writing. All refunds, redesignations, and reattributions must be made within sixty days of receipt of the contribution. Copies of refund checks and copies of letters reattributing or redesignating the

(Celebrating the Commission's 20th Anniversary)

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

contributions in question may be used to respond to this letter. Refunds are reported on Line 20 of the Detailed Summary Page and on a supporting Schedule B of the report covering the period in which they are made. Redesignations and reattributions are reported as memo entries on Schedule A of the report covering the period in which the authorization for the redesignation and/or reattribution is received. (11 CFR §104.8(d)(2), (3) and (4))

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The acceptance of excessive contributions is a serious problem. Again, the committee's procedures for processing contributions should be examined and corrected in order to avoid this problem. Although the Commission may take further legal action, prompt action by you to refund or seek redesignation and/or reattribution of the excessive amount will be considered.

[ -Schedule A of your report indicates that your committee may have failed to file one or more of the required 48 hour notices regarding "last minute" contributions received by your committee after the close of books by your committee. A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of \$1,000 or more received between two and twenty days before an election. These contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of \$1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions received during the aforementioned time period. Although the Commission may take legal action, any response you wish to provide concerning this matter will be considered. (11 CFR §104.5(f))

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

A written response or an amendment to your original report(s) correcting the above problem(s) should be filed with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 219-3580.

Sincerely,

T L

Todd Schumacher  
Reports Analyst  
Reports Analysis Division



Honorary Campaign Chairs:  
Diana Evans  
Alan "Punch" Green Jr.  
Former Congressman Bob Smith



Attachment # 5  
Page 1 of 2

RECEIVED  
SECRETARY OF THE  
PUBLIC RECORDS  
FEB 14 PM 3:19

February 13, 1996

Mr. Tod Schumacher, Reports Analyst  
Reports Analysis Division  
Federal Election Division  
Washington, D.C. 20463

RE: Your letter of January 30, 1996  
12 Day Year end/Pre-General Report (11/16/95-12-31-95)

Dear Mr. Schumacher:

In response to your letter we provide the following additional information:

With respect to the contributions which appear to exceed the limits set forth in the Act, our report attempted to show you that we were aware of the limits and were attempting, within the allowable 60 day limits provided for in the Act, to obtain whenever possible either a redesignation or reallocation of the excessive contribution. We attempted to demonstrate our understanding of the limits by including the caption contained in the 'Amount of each receipt this period' section of our filing by including one of the following statements:

- Reallocation Letter Sent
- Redesignation Letter Sent
- Redesignation & Reallocation Letter Sent

Our review of all contributions which exceeded allowable limits indicates that all such contributions were so marked.

Please find attached copies of: A) executed copies of reallocation/redesignation statements received by the campaign (which will be reported on our next report), B) the letters sent to contributors who have exceeded allowable limits but have not yet crossed over the 60 day time limit, and C) copies of refund checks issued to contributors who have exceeded the allowable time limits.

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With respect to the required 48 hour reports, our review has determined that the memo attribution of the 'Western International Investors & Investors Partnership' contribution to Lloyd Babler, Jr. was not timely filed. It appears that the campaign did not learn of the attribution of the contribution to a single partner, which would trigger disclosure, until after the partnership's 48 contribution report was filed. Steps have been taken to ensure that future receipts of partnership attributions subject to 48 hour reporting will trigger the appropriate reporting action. Our review did not disclose any other violations, but to ensure that our records correspond to yours we have enclosed a copy of all 48 hour reports filed together with our fax confirmations for both the Secretary of the Senate and the Oregon Secretary of State together with any confirmations of receipt we have received.

With respect to the reporting of draws under the line of credit and in confirmation of our telephone conversation, please find attached an amended schedule C for each of the effected reporting periods.

Sincerely,

Gordon Smith for U.S. Senate Committee



Gregory E. Niedermeyer, Treasurer

9704377403C  
95020060370

**FEDERAL ELECTION COMMISSION**

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

RECEIVED  
FEDERAL ELECTION COMMISSION  
GENERAL COUNSEL  
JUL 22 1 34 PM '96

**FIRST GENERAL COUNSEL'S REPORT**

**SENSITIVE**

RAD REFERRAL: 96L-01  
DATE ACTIVATED: 4/25/96

STAFF MEMBER: Tamara Kapper

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer,  
as treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(a)(6)(A)  
2 U.S.C. § 431(8)(A)

**I. GENERATION OF MATTER**

The Office of the General Counsel received a referral from the Reports Analysis Division ("RAD") on March 25, 1996. The basis for the attached referral is the failure of the Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer, ("Smith Committee") to file one (1) forty-eight hour notification ("48 Hour Notice") for a contribution totaling \$100,000 which was drawn from a \$2,000,000 line of credit guaranteed by the candidate, Gordon Harold Smith. Gordon Smith won the 1995 Special Primary Election for the Senate in the state of Oregon with sixty-three percent (63%) of the vote.

**II. FACTUAL AND LEGAL ANALYSIS**

Based on the Factual and Legal Analysis, see Attachment 1, this Office recommends the Commission find reason to believe the Smith Committee violated 2 U.S.C. § 434(a)(6)(A).

97043774031

### III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

### IV. RECOMMENDATIONS

- 1 Open a MUR
- 2 Find reason to believe that Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), and enter into conciliation prior to a finding of probable cause to believe.

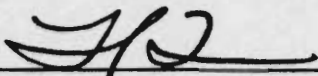
97043774032

3. Approve the attached factual and legal analysis, proposed conciliation agreement, and the appropriate letter.

Lawrence M. Noble  
General Counsel

7/22/96  
Date

BY:

  
Lois G. Lerner  
Associate General Counsel

Attachments:

1. Factual and Legal Analysis (1)
2. Proposed Conciliation Agreement (1)

97043774083





**FEDERAL ELECTION COMMISSION**

WASHINGTON, D.C. 20463

**MEMORANDUM**

**TO:**

**LAWRENCE M. NOBLE  
GENERAL COUNSEL**

**FROM:**

**MARJORIE W. EMMONS/ MARY W. DOVE  
COMMISSION SECRETARY**

**DATE:**

**JULY 25, 1996**

**SUBJECT:**

**RAD REFERRAL#96L-01 - FIRST GENERAL COUNSEL'S  
REPORT DATED JULY 22, 1996.**

**The above-captioned document was circulated to the Commission  
on: Monday, July 22, 1996, at 4:00 p.m.**

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

Commissioner Aikens	<u>xxx</u>
Commissioner Elliott	<u>          </u>
Commissioner McDonald	<u>          </u>
Commissioner McGarry	<u>          </u>
Commissioner Potter	<u>          </u>
Commissioner Thomas	<u>          </u>

**This matter will be placed on the meeting agenda for:  
July 30, 1996**

**Please notify us who will represent your Division before the Commission  
on this matter. Thank You!**

97043774034

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Gordon Smith for U.S. Senate )  
Committee, Inc., and )  
Greg Niedermeyer, as treasurer )

MUR 4425  
RAD Referral 96L-01

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 30, 1996, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to RAD Referral 96L-01:

1. Open a MUR.
2. Find reason to believe that Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the factual and legal analysis, the proposed conciliation agreement, and the appropriate letter as recommended in the General Counsel's July 22, 1996 report

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

Attest:

9704374035  
7-31-96  
Date

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



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

August 6, 1996

Greg Niedermeyer, Treasurer  
Gordon Smith for U.S. Senate Committee, Inc.  
5285 S.W. Meadows Road, Suite 181  
Lake Oswego, OR 97035

RE: MUR 4425  
Gordon Smith for U.S. Senate  
Committee, Inc. and  
Greg Niedermeyer, as treasurer

Dear Mr. Niedermeyer:

On July 30, 1996, the Federal Election Commission found that there is reason to believe Gordon Smith for U.S. Senate Committee, Inc. ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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

If 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

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counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Tamara Kapper, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,

  
Lee Ann Elliott  
Chairman

Enclosures  
Factual and Legal Analysis  
Procedures  
Designation Counsel Form  
Conciliation Agreement

cc: Gordon Harold Smith

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# FEDERAL ELECTION COMMISSION

## FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Gordon Smith for U.S. Senate  
Committee, Inc. and  
Greg Niedermeyer, as treasurer

MUR 4425

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

The Federal Election Campaign Act of 1971, as amended, ("the Act") requires principal campaign committees of candidates for federal office to notify, in writing, either the Secretary of the Senate, the Clerk of the U.S. House of Representatives or the Commission, as appropriate, and the Secretary of State, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. Id. The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

Pursuant to 2 U.S.C. § 431(8)(A)(ii), the term "contribution" is defined as any gift, subscription, loan, advance, or deposit of money or anything of value made by any

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person for the purpose of influencing any election for Federal office. According to 2 U.S.C. § 431(8)(A) and 11 C.F.R. § 100.7(a)(1)(B), a loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. Furthermore, each guarantor or endorser of a loan shall be deemed to have contributed that portion of the total amount of the loan for which the guarantor or endorser agreed to be liable until the loan is repaid. 2 U.S.C. § 431(8)(B)(vii)(I) and 11 C.F.R. § 100.7(a)(1)(i)(C).

According to its Statement of Organization filed with the Commission, Gordon Smith for U.S. Senate Committee, Inc. is the principal campaign committee of Gordon Harold Smith, a Senatorial candidate in the state of Oregon. Greg Niedermeyer is the treasurer of the Gordon Smith for U.S. Senate Committee, Inc.

The 1995 Special Primary Election for the Senate in the state of Oregon was held on December 5, 1995. Pursuant to the Act, Respondents were required to notify the Commission, in writing, of all contributions of \$1,000 or more received from November 16, 1995 to December 2, 1995, within 48 hours of their receipt. A review of the Smith Committee's 1995 12 Day Pre-General Report identified one (1) contribution received on November 28, 1995, totaling \$100,000 which was in the form of a loan drawn from a line of credit from the United States National Bank of Oregon to the Smith Committee. The contribution was reported on Schedules A and C-1 with the candidate, Gordon Harold Smith, listed as the sole guarantor of a \$2,000,000 credit line to the Smith Committee. Accordingly, the Smith Committee should have filed the 48 Hour Notice for this contribution no later than November 30, 1995. The Smith Committee failed to submit the required 48 Hour Notice for this contribution.

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Therefore, there is reason to believe that the Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, its treasurer, violated 2 U.S.C. § 434(a)(6)(A) by failing to report a campaign contribution of \$1,000 or more, received after the 20th day, but more than 48 hours before the Special Primary Election, within 48 hours of receipt of the contribution.

97043774000

**HAGEN, DYE, HIRSCHY & DiLORENZO, P.C.**  
**ATTORNEYS AT LAW**

JOSEPH T. HAGEN \*\*  
JEFFREY L. DYE  
JOHN A. HIRSCHY †  
JOHN A. DiLORENZO, JR.  
DANA R. TAYLOR  
MARK A. GOLDING †  
KENNETH A. WILLIAMS

NINETEENTH FLOOR  
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ONE S.W. COLUMBIA STREET  
PORTLAND, OREGON 97238-2087  
(503) 222-1812  
FAX (503) 274-7979

ANNIE T. BUELL  
MICHAEL E. FARNELL \*  
DAVID E. GREIN †  
JOHN D. PARSONS  
ADAM S. RITTENBERG  
MELINDA LEAVER ROY  
BLANCHE I. SOMMERS  
AARON K. STUCKEY  
RAGNA L. TENEYCK \*\*\*

\*Also admitted in Washington  
\*\*Also admitted in California  
\*\*\*Also admitted in Colorado  
†LLM in taxation

IN REPLY PLEASE REFER  
TO FILE NO.: 4670.001

August 20, 1996

VIA FACSIMILE  
202-219-3923

Aug 29 10 12 AM '96  
RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

Ms. Tamara Kapper  
Federal Election Commission  
Washington, D. C. 20463

Re: MUR 4425 - Gordon Smith for U. S. Senate  
Committee, Inc. and Greg Niedermeyer, as  
Treasurer

Dear Ms. Kapper:

Enclosed please find statements of designation of counsel for Gordon Smith for U. S. Senate Committee, Inc., signed by Dan Lavey, its Vice President, and for Greg Niedermeyer, Treasurer of the committee. This morning I had a conversation with Mary Ann Bumgarner in your absence. I explained that I had just received Commission Chair Elliott's letter dated August 6, 1996, and was in need of an extension of time in which to marshal the committee's files and respond to the correspondence. Ms. Bumgarner informed me that a ten day extension of time was reasonable and would likely be granted under the circumstances.

This is to therefore formally request a ten day extension of time in which to respond to the commission's correspondence of August 6, 1996. I would appreciate hearing back from you as soon as possible concerning the extension of time.

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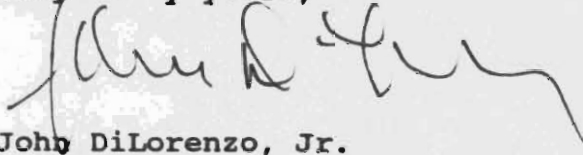


**HAGEN, DYE, HIRSCHY & DILORENZO, P.C.**  
ATTORNEYS AT LAW

Ms. Tamara Kapper  
August 20, 1996  
Page 2

Thank you for your courtesies concerning this matter.

Very truly yours,



John DiLorenzo, Jr.

cc - Honorable Gordon Smith  
Mr. Greg Niedermeyer

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**STATEMENT OF DESIGNATION OF COUNSEL**

**NUM** 4425

**NAME OF COUNSEL:** John DiLorenzo, Jr.

**ADDRESS:** Hagen, Dye, Hirschy & DiLorenzo, P. C.

One SW. Columbia, 19th Floor

Portland, Oregon 97258

**TELEPHONE:** (503) 222-1812

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.

August 20, 1996  
**Date**

  
**Signature**

**RESPONDENT'S NAME:** Greg Niedermeyer

**ADDRESS:** 5285 SW. Meadows Road

Suite 181

Lake Oswego, Oregon 97035

**HOME PHONE:** \_\_\_\_\_

**BUSINESS PHONE:** (503) 639-4156

97043774023

STATEMENT OF DESIGNATION OF COUNSEL

NR 4425

NAME OF COUNSEL: John DiLorenzo, Jr.

ADDRESS: Hagen, Dye, Hirschy & DiLorenzo, P. C.

One SW. Columbia, 19th Floor

Portland, Oregon 97258

TELEPHONE: (503) 222-1812

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
JUN 29 10 12 AM '96

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.

8/20/96  
Date

By [Signature]  
Signature  
Vice President

RESPONDENT'S NAME: Gordon Smith for U. S. Senate Committee, Inc.

ADDRESS: 5285 SW. Meadows Road

Suite 181

Lake Oswego, Oregon 97035

HOME PHONE: \_\_\_\_\_

BUSINESS PHONE: (503) 639-4156

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 21, 1996

VIA FACSIMILE and  
REGULAR MAIL

John DiLorenzo, Jr., Esquire  
Hagen, Dye, Hirschy & DiLorenzo, P.C.  
One S.W. Columbia Street, 19th Floor  
Portland OR 97258-2087

RE: MUR 4425  
Gordon Smith for U.S. Senate  
Committee, Inc. and  
Greg Niedermeyer, as treasurer

Dear Mr. DiLorenzo:

This is in response to your letter dated August 20, 1996, which we received on the same day, requesting an extension of ten (10) days to respond to the Commission's reason to believe finding against your clients, Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on September 4, 1996.

If you have any questions, please contact me at (202) 219-3690.

Sincerely,

A handwritten signature in cursive script, reading "Tamar K. Kapper", is written over the typed name.

Tamar K. Kapper  
Paralegal

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**HAGEN, DYE, HIRSCHY & DILORENZO, P.C.**  
ATTORNEYS AT LAW

JOSEPH T. HAGEN \*\*  
JEFFREY L. DYE  
JOHN A. HIRSCHY †  
JOHN A. DILORENZO, JR.  
DANA R. TAYLOR  
MARK A. GOLDING †  
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MELINDA LEAVIER ROY  
BLANCHE I. SOMMERS  
AARON E. STUCKEY  
KAGNA L. TENBYCK \*\*\*

\*Also admitted in Washington

\*\*Also admitted in California

\*\*\*Also admitted in Colorado

† LL.M. in taxation

IN REPLY PLEASE REFER  
TO FILE NO.: 4670.001

September 4, 1996

VIA FACSIMILE AND  
FIRST CLASS MAIL  
202-219-3923

Ms. Tamara Kapper  
Office of General Counsel  
Federal Election Commission  
Washington, D. C. 20463

Re: MUR 4425 - Gordon Smith for U. S. Senate  
Committee, Inc. and Greg Niedermeyer, as  
Treasurer

Dear Ms. Kapper:

This letter is submitted on behalf of my clients, the Gordon Smith for U. S. Senate Committee, Inc., and Greg Niedermeyer, as treasurer, in response to the commission's factual and legal analysis in the above-referenced matter and in response to your correspondence of August 6, 1996, inviting factual or legal materials which we believe are relevant to the commission's consideration of this matter.

Your notice alleges that the Gordon Smith for U. S. Senate Committee, Inc. (the "incorporated committee") failed to file a 48-hour report. The incorporated committee was not in existence at the time framed in your notice, nor has the incorporated committee failed to file any reports. We therefore request you rescind your finding of "reason to believe" and, instead, find no reason to believe the incorporated committee has committed any reporting violation.

The affidavit of Greg Niedermeyer, which is submitted herewith, clarifies that Gordon Harold Smith has maintained two committees. One committee, the Gordon Smith for U. S. Senate Committee (the "special election committee") was assigned FEB

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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**HAGEN, DYE, HIRSCHY & DILORENZO, P.C.**  
**ATTORNEYS AT LAW**

Ms. Tamara Kapper  
September 4, 1996  
Page 2

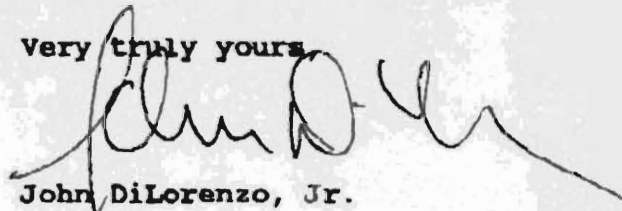
identification number C00306183 and was the principal campaign committee for the 1995 special Oregon election to replace Senator Robert Packwood. That committee is a terminating committee under 11 CFR §116.1(a) in that it has ceased to make or accept contributions and expenditures other than contributions accepted for debt retirement purposes and expenditures representing payments of debts or obligations previously incurred during the special election campaign and as otherwise authorized under 11 CFR §116.

The second committee, the Gordon Smith for U. S. Senate Committee, Inc. (the "incorporated committee") is the subject of your preliminary findings in MUR 4425. That committee was incorporated on February 28, 1996, and filed its statement of organization with the commission on March 1, 1996. It was assigned FEC identification number C00316935. On March 1, 1996, Gordon Harold Smith designated the incorporated committee as his principal campaign committee for the May 1996 primary and the November 1996 general election for the U. S. Senate seat held by retiring Senator Mark Hatfield.

As the affidavit of Greg Niedermeyer makes clear, the incorporated committee which is the subject of MUR 4425 was not in existence at the time of the acts alleged by the commission. Because the committee was not in existence at the time of the allegations complained of by the commission and could not, therefore, have made the reporting errors you allege, the commission findings in MUR 4425 should be rescinded.

Thank you for your courtesies and time concerning this matter. Should you require anything further, please do not hesitate to call upon me.

Very truly yours,



John DiLorenzo, Jr.

cc - Mr. Dan Lavey - Gordon Smith  
for U. S. Senate Committee, Inc.  
Mr. Greg Niedermeyer

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## BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )

GORDON SMITH FOR U. S. SENATE )  
COMMITTEE, INC. )

HUR 4425

and )

AFFIDAVIT OF GREG NIEDERMEYER

GREG NIEDERMEYER, as Treasurer )

STATE OF OREGON )

County of Multnomah ) ss.

I, GREG NIEDERMEYER, being duly sworn do say:

1. That I am the treasurer of the Gordon Smith for U. S. Senate Committee, Inc. (hereinafter referred to as "the incorporated committee"). I make this affidavit in response to the commission's finding of reason to believe that the incorporated committee and I as treasurer have violated 2 USC §434(a)(6)(A).

2. The commission has alleged that the incorporated committee and its treasurer violated 2 USC §434(a)(6)(A) by failing to notify the commission in writing of all contributions of \$1,000 or more received from November 16, 1995, to December 2, 1995, within 48 hours of receipt.

3. The allegation made by the commission is based upon the commission's review of "the Smith Committee's 1995, 12-day Pre-General Report." That report was filed by the Gordon Smith for U. S. Senate Committee ("the special election committee") which was

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Gordon Harold Smith's principal campaign committee for the 1995 special Oregon election to replace Senator Robert Packwood. That committee was assigned FEC identification No. C00306183, is currently a terminating committee, and is only accepting contributions or making expenditures to pay its debts and expenses permitted by 11 CFR § 116.

4. A second committee, the Gordon Smith for U. S. Senate Committee, Inc. (the "incorporated committee") was incorporated on February 28, 1996, and filed its statement of organization with the commission on March 1, 1996. The incorporated committee was assigned FEC identification No. C00316935. On March 1, 1996, Gordon Harold Smith designated the incorporated committee as his principal campaign committee for the 1996 elections.

5. Attached hereto as exhibits are: Exhibit A (the Articles of Incorporation of the incorporated committee bearing a date stamp of February 28, 1996, by the office of the secretary of state, and bearing registry number 50306787), Exhibit B (FEC Form 1--Statement of Organization of the incorporated committee dated March 1, 1996), Exhibit C (acknowledgment of receipt of Statement of Organization of the incorporated committee dated March 5, 1996), and Exhibit D (FEC Form 2, the Statement of Candidacy designating the incorporated committee as the principal campaign committee for the 1996 elections).

6. The incorporated committee for which I serve as treasurer was not in existence at the time of the acts alleged by the commission.

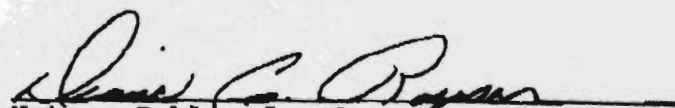
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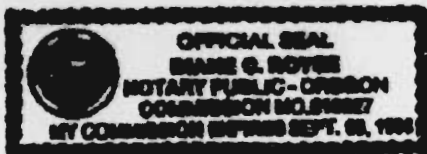
7. The commission's claims against the incorporated committee and me as its treasurer should therefore be dismissed.

  
GREG NIEDERMEYER

Subscribed and sworn to before me this 3rd day of ~~August~~ <sup>September</sup>,  
1996.

  
Notary Public for Oregon

My Commission expires: 9/3/96



97643774100

Submit the original  
and one true copy  
\$20.00

Corporation Division - Business Registry  
Public Service Building  
255 Capitol St., NE Ste. 151  
Salem, OR 97310-1327  
(503) 986-2200 Facsimile (503) 378-4381

FOR OFFICE USE ONLY

REGISTRY NUMBER:

50306787

FILED

FEB 28 1996

SECRETARY OF STATE

# ARTICLES OF INCORPORATION Nonprofit Corporation

ARTICLE 1: Name of the corporation:

GORDON SMITH FOR UNITED STATES SENATE COMMITTEE, INC.

ARTICLE 2: Type of corporation (check one only):

       Public Benefit      X   Mutual Benefit           Religious Benefit

ARTICLE 3: Name of the initial registered agent: John DiLorenzo, Jr.

Residence or business address of registered agent (must be a street  
address in Oregon):

One SW. Columbia, Suite 1900    Portland    OR    97258  
Street                                      City                                      State                                      Zip Code

ARTICLE 4: Principal office address:

7276 SW. Beaverton Highway    Portland    OR    97225  
Street                                      City                                      State                                      Zip Code

ARTICLE 5: Indicate if corporation will have members:        yes      X   no

ARTICLE 6: Distribution of assets on dissolution or final liquidation (attach a separate sheet):

Upon the winding up and dissolution of this corporation, after paying or  
adequately providing for the debts and obligations of the corporation, the  
remaining assets shall be distributed in accordance with the provisions of 2 USC  
§§ 431, et seq., or to such 501(c)(3) organizations as permitted by law.

Pe

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**ARTICLE 7:**

Name and address of each director is optional.  
(If the corporation is a public benefit, you must list three or more directors and their addresses below.)

Name	Street	City	State	Zip Code
------	--------	------	-------	----------

Name	Street	City	State	Zip Code
------	--------	------	-------	----------

Name	Street	City	State	Zip Code
------	--------	------	-------	----------

Name of the corporation:

GORDON SMITH FOR UNITED STATES SENATE COMMITTEE, INC.

**ARTICLE 8:**

Each director named has consented to this appointment.

**ARTICLE 9:**

Liability of Directors and Officers:

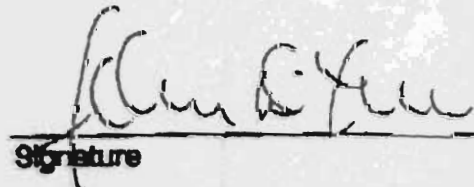
No director or officer of the Corporation shall be personally liable to the corporation for monetary damages for conduct as a director or officer; provided that this article shall not eliminate the liability of a director or officer for any act or omission for which such elimination of liability is not permitted under the Oregon Nonprofit Corporation Act. No amendment to the Oregon Nonprofit Corporation Act that further limits the acts or omissions for which elimination of liability is permitted shall affect the liability of a director or officer for any act or omission which occurs prior to the effective date of such amendment.

**ARTICLE 10:**

Name and address of the incorporator:

Name	Street	City	State	Zip Code
John DiLorenzo, Jr.	One SW. Columbia	Ste. 1900, Portland	OR	97258

**Execution:**

	John DiLorenzo, Jr.	Incorporator
Signature	Printed Name	Title

Person to contact about this filing: Name John DiLorenzo, Jr. Phone (503) 222-1812

## STATEMENT OF ORGANIZATION

(See reverse side for instructions)

1. (a) NAME OF COMMITTEE IN FULL <b>Gordon Smith for U. S. Senate Committee, Inc.</b>	<input type="checkbox"/> (Check if name is changed)	2. DATE <b>March 1, 1996</b>
(b) Number and Street Address <b>5285 SW. Mowhows Dr., Suite 181</b>	<input type="checkbox"/> (Check if address is changed)	3. FEC Identification Number
(c) City, State and ZIP Code <b>Lake Oswego, Oregon 97035</b>		4. Is This Report An Amendment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

## 5. TYPE OF COMMITTEE (Check one)

- ☒ (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- ☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)
- |  |  |                                      |                                 |
|--|--|--------------------------------------|---------------------------------|
| Name of Candidate<br><b>Gordon Smith</b> | Candidate Party Affiliation<br><b>Republican</b> | Office Sought<br><b>U. S. Senate</b> | State/District<br><b>Oregon</b> |
|--|--|--------------------------------------|---------------------------------|
- ☐ (c) This committee supports/opposes only one candidate \_\_\_\_\_ and is NOT an authorized committee.  
(name of candidate)
- ☐ (d) This committee is a \_\_\_\_\_ committee of the \_\_\_\_\_ Party.  
(National, State or subordinate) (Democratic, Republican, etc.)
- ☐ (e) This committee is a separate segregated fund.
- ☐ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

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

## Type of Connected Organization

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

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

Full Name	Mailing Address	Title or Position
<b>Virginia T. Ehlen</b>	<b>5285 SW. Mowhows Drive, Suite 181 Lake Oswego, Oregon 97035</b>	<b>Administrative Secretary</b>

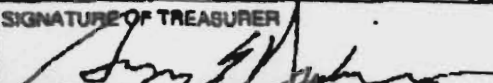
## 8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).

Full Name	Mailing Address	Title or Position
<b>Greg Niedermeyer</b>	<b>7276 SW. Beaverton Highway Portland, OR 97225</b>	<b>Treasurer</b>

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

Name of Bank, Depository, etc.	Mailing Address and ZIP Code
<b>U.S. Bank</b>	<b>1340 SW. 2nd Avenue Portland, OR 97201</b>

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

TYPE OR PRINT NAME OF TREASURER <b>Greg Niedermeyer</b>	SIGNATURE OF TREASURER 	DATE <b>March 1, 1996</b>
--	--	------------------------------

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. §437g.  
ANY CHANGE IN INFORMATION SHOULD BE REPORTED WITHIN 30 DAYS.

For further information contact:  
Federal Election Commission  
Toll-free 800-424-9530  
Local 202-219-3420

EXHIBIT 1  
PAGE 1 OF 1

FEC FORM 1  
(revised 4/87)

9704374103





## FEDERAL ELECTION COMMISSION

999 E Street, N.W.  
Washington, D.C. 20463ACKNOWLEDGEMENT OF RECEIPT  
OF  
Statement of Organization

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

GREG NIEDERMEYER, Treasurer  
GORDON SMITH FOR U S SENATE COMMITTEE INC  
5285 SW MEADOWS DR SUITE 181  
LAKE OSWEGO OR 97035

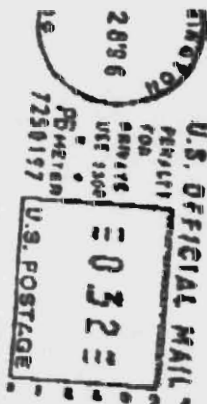
DATE: 03/05/1996

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

Your assigned FEC IDENTIFICATION NUMBER is C00316935

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

FEDERAL ELECTION COMMISSION

FEC FORM 20 (9/87)  
(Supersedes FEC Forms 13, 14, and 15)EXHIBIT  
PAGE

OF

97043774104

## STATEMENT OF CANDIDACY

(see reverse side for instructions)

1. (a) Name of Candidate (in full)

Gordon Harold Smith

(b) Address (number and street)

1101 Skyline Drive

(c) City, State, and ZIP Code

Pendleton, OR 97801

2. Identification Number

3. Party Affiliation

Republican

4. Office Sought

U. S. Senate

5. State &amp; District of Candidate

Oregon, United States Senate

## DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1996 election(s).  
(year of election)

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

(a) Name of Committee (in full)

Gordon Smith for U. S. Senate Committee, Inc.

(b) Address (number and street)

5285 SW Meadows Drive, Suite 181

(c) City, State and ZIP Code

Lake Oswego, Oregon 97035

## DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

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

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

(a) Name of Committee (in full)

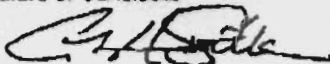
(b) Address (number and street)

(c) City, State and ZIP Code

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

Signature of Candidate

Date



March 1, 1996

NOTE: Submission of false, erroneous, or incomplete information may subject the person signing this Statement to the penalties of 2 U.S.C. 5-437g

## CANDIDATES FOR THE OFFICE OF:

President mail to:

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

U.S. Senate mail to:

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

U.S. House of Representatives mail to:

Clerk of the House of Representatives  
Office of Records and Registration  
1036 Longworth Office Bldg.  
Washington, DC 20515-6612

For further information contact:

Federal Election Commission  
Toll-free 800/424-9530  
Local 202/219-3420

EXHIBIT

PAGE

OF

FEC FORM

97043774105

**HAGEN, DYE, HIRSCHY & DiLORENZO, P.C.**  
**ATTORNEYS AT LAW**

JOSEPH T. HAGEN \*\*†  
JEFFREY L. DYE  
JOHN A. HIRSCHY †  
JOHN A. DiLORENZO, JR.  
DANA R. TAYLOR  
MARK A. GOLDING †  
KENNETH A. WILLIAMS

NINETEENTH FLOOR  
BENJ. FRANKLIN PLAZA  
ONE S.W. COLUMBIA STREET  
PORTLAND, OREGON 97239-2087  
(503) 222-1812  
FAX (503) 274-7979

ANNIE T. BUELL  
MICHAEL E. FARNELL \*  
DAVID E. GREIN †  
JOHN D. PARSONS  
ADAM S. RITTENBERG  
MELINDA LEAVER ROY  
BLANCHE I. SOMMERS  
AARON K. STUCKEY  
RAGNA L. TENNEYCK \*\*\*†

\*Also admitted in Washington

\*\*Also admitted in California

\*\*\*Also admitted in Colorado

†LLM in taxation

IN REPLY PLEASE REFER  
TO FILE NO.: 4670.001

September 4, 1996

VIA FACSIMILE AND  
FIRST CLASS MAIL  
202-219-3923

Ms. Tamara Kapper  
Office of General Counsel  
Federal Election Commission  
Washington, D. C. 20463

Re: MUR 4425 - Gordon Smith for U. S. Senate  
Committee, Inc. and Greg Niedermeyer, as  
Treasurer

Dear Ms. Kapper:

This letter is in reference to my earlier correspondence to you of September 4, 1996, wherein I forwarded the Affidavit of Greg Niedermeyer in support of my clients' position that your findings of "reason to believe" should be rescinded. After sending the facsimile, I noticed that the notary's commission expired on September 3, 1996. I am therefore forwarding an identical substitute affidavit of Greg Niedermeyer authenticated by a notary whose commission is currently valid.

Thank you for your courtesies concerning this matter.

Very truly yours,

  
John DiLorenzo, Jr.

cc - Mr. Dan Lavey - Gordon Smith  
for U. S. Senate Committee, Inc.  
Mr. Greg Niedermeyer

SEP 10 12 07 PM '96

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

9704374106

BEFORE THE FEDERAL ELECTION COMMISSION

SEP 10 12 07 PM '96

In the Matter of )  
 )  
GORDON SMITH FOR U. S. SENATE ) MUR 4425  
COMMITTEE, INC. )  
 )  
and )  
 )  
GREG NIEDERMEYER, as Treasurer)

STATE OF OREGON )  
 ) ss.  
County of Multnomah )

I, GREG NIEDERMEYER, being duly sworn do say:

1. That I am the treasurer of the Gordon Smith for U. S. Senate Committee, Inc. (hereinafter referred to as "the incorporated committee"). I make this affidavit in response to the commission's finding of reason to believe that the incorporated committee and I as treasurer have violated 2 USC §434(a)(6)(A).

2. The commission has alleged that the incorporated committee and its treasurer violated 2 USC §434(a)(6)(A) by failing to notify the commission in writing of all contributions of \$1,000 or more received from November 16, 1995, to December 2, 1995, within 48 hours of receipt.

3. The allegation made by the commission is based upon the commission's review of "the Smith Committee's 1995, 12-day Pre-General Report." That report was filed by the Gordon Smith for U. S. Senate Committee ("the special election committee") which was

97043774107



97043774108  
Gordon Harold Smith's principal campaign committee for the 1995 special Oregon election to replace Senator Robert Packwood. That committee was assigned FEC identification No. C00306183, is currently a terminating committee, and is only accepting contributions or making expenditures to pay its debts and expenses permitted by 11 CFR § 116.

4. A second committee, the Gordon Smith for U. S. Senate Committee, Inc. (the "incorporated committee") was incorporated on February 28, 1996, and filed its statement of organization with the commission on March 1, 1996. The incorporated committee was assigned FEC identification No. C00316935. On March 1, 1996, Gordon Harold Smith designated the incorporated committee as his principal campaign committee for the 1996 elections.

5. Attached hereto as exhibits are: Exhibit A (the Articles of Incorporation of the incorporated committee bearing a date stamp of February 28, 1996, by the office of the secretary of state, and bearing registry number 50306787), Exhibit B (FEC Form 1--Statement of Organization of the incorporated committee dated March 1, 1996), Exhibit C (acknowledgment of receipt of Statement of Organization of the incorporated committee dated March 5, 1996), and Exhibit D (FEC Form 2, the Statement of Candidacy designating the incorporated committee as the principal campaign committee for the 1996 elections).

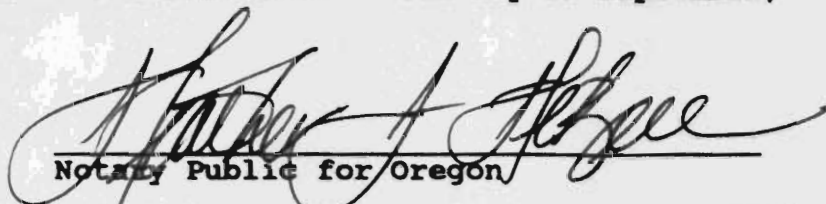
6. The incorporated committee for which I serve as treasurer was not in existence at the time of the acts alleged by the commission.

7. The commission's claims against the incorporated committee and me as its treasurer should therefore be dismissed.

  
\_\_\_\_\_  
GREG NIEDERMEYER

Subscribed and sworn to before me this 4th day of September,  
1996.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission expires: June 13, 1997

97043774109

Submit the original  
and one true copy  
\$20.00

Corporation Division - Business Registry  
Public Service Building  
255 Capitol St., NE Ste. 151  
Salem, OR 97310-1327  
(503) 986-2200 Facsimile (503) 378-4381

FOR OFFICE USE ONLY

FILED

FEB 28 1996

SECRETARY OF STATE

REGISTRY NUMBER:

50306787

**ARTICLES OF INCORPORATION**  
**Nonprofit Corporation**

**ARTICLE 1:** Name of the corporation:

GORDON SMITH FOR UNITED STATES SENATE COMMITTEE, INC.

**ARTICLE 2:** Type of corporation (check one only):

       Public Benefit   X   Mutual Benefit        Religious Benefit

**ARTICLE 3:** Name of the initial registered agent: John DiLorenzo, Jr.

Residence or business address of registered agent (must be a street  
address in Oregon):

One SW. Columbia, Suite 1900 Portland OR 97258  
Street City State Zip Code

**ARTICLE 4:** Principal office address:

7276 SW. Beaverton Highway Portland OR 97225  
Street City State Zip Code

**ARTICLE 5:** Indicate if corporation will have members:        yes   X   no

**ARTICLE 6:** Distribution of assets on dissolution or final liquidation (attach a separate  
sheet):

Upon the winding up and dissolution of this corporation, after paying or  
adequately providing for the debts and obligations of the corporation, the  
remaining assets shall be distributed in accordance with the provisions of 2 USC  
§§ 431, et seq., or to such 501(c)(3) organizations as permitted by law.

Pe

EXHIBIT

PAGE

OF

97043774110

**ARTICLE 7:**

Name and address of each director is optional.

(If the corporation is a public benefit, you must list three or more directors and their addresses below.)

Name	Street	City	State	Zip Code
------	--------	------	-------	----------

Name	Street	City	State	Zip Code
------	--------	------	-------	----------

Name	Street	City	State	Zip Code
------	--------	------	-------	----------

Name of the corporation:

GORDON SMITH FOR UNITED STATES SENATE COMMITTEE, INC.**ARTICLE 8:**

Each director named has consented to this appointment.

**ARTICLE 9:**

Liability of Directors and Officers:

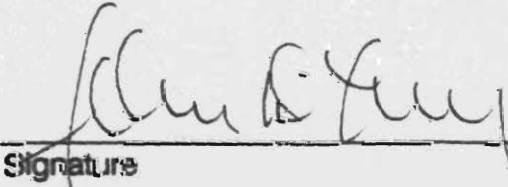
No director or officer of the Corporation shall be personally liable to the corporation for monetary damages for conduct as a director or officer; provided that this article shall not eliminate the liability of a director or officer for any act or omission for which such elimination of liability is not permitted under the Oregon Nonprofit Corporation Act. No amendment to the Oregon Nonprofit Corporation Act that further limits the acts or omissions for which elimination of liability is permitted shall affect the liability of a director or officer for any act or omission which occurs prior to the effective date of such amendment.

**ARTICLE 10:**

Name and address of the incorporator:

Name	Street	City	State	Zip Code
John DiLorenzo, Jr.	One SW. Columbia St.	1900, Portland	OR	97258

**Execution:**

	John DiLorenzo, Jr.	Incorporator
Signature	Printed Name	Title

Person to contact about this filing: Name John DiLorenzo, Jr. Phone (503) 222-1812

970437411



# STATEMENT OF ORGANIZATION

(See reverse side for instructions)

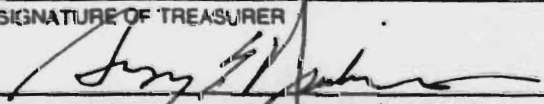
1. (a) NAME OF COMMITTEE IN FULL Gordon Smith for U. S. Senate Committee, Inc.	<input type="checkbox"/> (Check if name is changed)	2. DATE March 1, 1996
(b) Number and Street Address 5285 SW. Meadows Dr., Suite 181	<input type="checkbox"/> (Check if address is changed)	3. FEC Identification Number
(c) City, State and ZIP Code Lake Oswego, Oregon 97035		4. Is This Report An Amendment? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

## 5. TYPE OF COMMITTEE (Check one)

- ☒ (a) This committee is a principal campaign committee. (Complete the candidate information below.)
- ☐ (b) This committee is an authorized committee, and is NOT a principal campaign committee. (Complete the candidate information below.)
- |                                   |   |                               |                          |
|-----------------------------------|---|-------------------------------|--------------------------|
| Name of Candidate<br>Gordon Smith | Candidate Party Affiliation<br>Republican | Office Sought<br>U. S. Senate | State/District<br>Oregon |
|-----------------------------------|---|-------------------------------|--------------------------|
- ☐ (c) This committee supports/opposes only one candidate \_\_\_\_\_ and is NOT an authorized committee.  
(name of candidate)
- ☐ (d) This committee is a \_\_\_\_\_ committee of the \_\_\_\_\_ Party.  
(National, State or subordinate) (Democratic, Republican, etc.)
- ☐ (e) This committee is a separate segregated fund.
- ☐ (f) This committee supports/opposes more than one Federal candidate and is NOT a separate segregated fund or a party committee.

6. Name of Any Connected Organization or Affiliated Committee	Mailing Address and ZIP Code	Relationship
Type of Connected Organization <input type="checkbox"/> Corporation <input type="checkbox"/> Corporation w/o Capital Stock <input type="checkbox"/> Labor Organization <input type="checkbox"/> Membership Organization <input type="checkbox"/> Trade Association <input type="checkbox"/> Cooperative		
7. Custodian of Records: Identify by name, address (phone number - optional) and position of the person in possession of committee books and records.		
Full Name Virginia T. Ehlen	Mailing Address 5285 SW. Meadows Drive, Suite 181 Lake Oswego, Oregon 97035	Title or Position Administrative Secretary
8. Treasurer: List the name and address (phone number - optional) of the treasurer of the committee; and the name and address of any designated agent (e.g., assistant treasurer).		
Full Name Greg Niedermeyer	Mailing Address 7276 SW. Beaverton Highway Portland, OR 97225	Title or Position Treasurer
9. Banks or Other Depositories: List all banks or other depositories in which the committee deposits funds, holds accounts, rents safety deposit boxes or maintains funds.		
Name of Bank, Depository, etc. U.S. Bank	Mailing Address and ZIP Code 1340 SW. 2nd Avenue Portland, OR 97201	

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

TYPE OR PRINT NAME OF TREASURER Greg Niedermeyer	SIGNATURE OF TREASURER 	DATE March 1, 1996
---	--	-----------------------

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

For further information contact  
Federal Election Commission  
Toll-free 800-424-9530  
Local 202-219-3420

EXHIBIT  
PAGE 1 OF 1

FEC FORM 1  
(revised 4/87)

9704374112



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

**ACKNOWLEDGEMENT OF RECEIPT  
OF  
Statement of Organization**

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

GREG NIEDERMEYER, Treasurer  
GORDON SMITH FOR U S SENATE COMMITTEE INC  
5285 SW MEADOWS DR SUITE 181  
LAKE OSWEGO OR 97035

DATE: 03/05/1996

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

Your assigned FEC IDENTIFICATION NUMBER is C00316935

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

FEDERAL ELECTION COMMISSION

FEC FORM 20 (3/87)  
(Supersedes FEC Forms 13, 14, and 18)

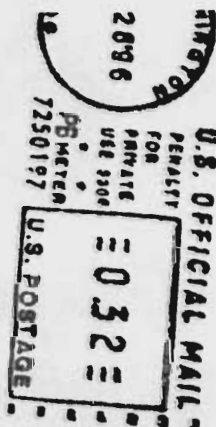


EXHIBIT C  
PAGE 1 OF 1

# STATEMENT OF CANDIDACY

(see reverse side for instructions)

1. (a) Name of Candidate (in full)

Gordon Harold Smith

(b) Address (number and street)

1101 Skyline Drive

(c) City, State, and ZIP Code

Pendleton, OR 97801

2. Identification Number

3. Party Affiliation  
Republican

4. Office Sought  
U. S. Senate

5. State & District of Candidate  
Oregon, United States Senate

## DESIGNATION OF PRINCIPAL CAMPAIGN COMMITTEE

6. I hereby designate the following named political committee as my Principal Campaign Committee for the 1996 election(s).  
(year of election)

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

(a) Name of Committee (in full)

Gordon Smith for U. S. Senate Committee, Inc.

(b) Address (number and street)

5285 SW. Meadows Drive, Suite 181

(c) City, State and ZIP Code

Lake Oswego, Oregon 97035

## DESIGNATION OF OTHER AUTHORIZED COMMITTEES

(Including Joint Fundraising Representatives)

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

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

(a) Name of Committee (in full)

(b) Address (number and street)

(c) City, State and ZIP Code

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

Signature of Candidate

Date



March 1, 1996

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

## CANDIDATES FOR THE OFFICE OF:

President mail to:

U.S. Senate mail to:

U.S. House of Representatives mail to:

For further information contact:

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

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

Clerk of the House of Representatives  
Office of Records and Registration  
1036 Longworth Office Bldg.  
Washington, DC 20515-6612

Federal Election Commission  
Toll-free 800/424-9530  
Local 202/219-3420

EXHIBIT

PAGE

OF

FEC FORM 2

970437414

**FAX**

Date 10/16/96

Number of pages including cover sheet 1

**TO:** Ms. Tamara Kapper  
Federal Election  
Commission  
999 E Street, NW  
Washington, D.C.

Phone

Fax Phone 202-219-3923

**FROM:** Greg Niedermeyer

6220 SW Spruce Avenue  
Beaverton, OR 97005

Phone 503-292-3810

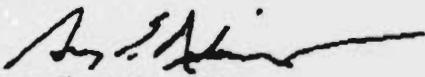
Fax Phone 503-292-3778

**CC:** John DiLorenzo

**REMARKS:** ☒ Urgent ☒ For your review ☐ Reply ASAP ☐ Please Comment

RE: MUR 4425

As the Treasurer of Gordon Smith for US Senate Committee, FEC ID # C00305183, I here by confirm that John DiLorenzo is counsel for the committee.

  
Gregory E. Niedermeyer  
Treasurer, Gordon Smith for US Senate

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

OCT 16 4 33 PM '96

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
SECRETARIAT

SEP 30 11 22 AM '96

September 30, 1996

**MEMORANDUM**

**SENSITIVE**

TO: The Commission

FROM: Lawrence M. Noble  
General Counsel

BY: Lois G. Lerner  
Associate General Counsel

SUBJECT: MUR 4425 -- Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer

On July 30, 1996, the Commission found reason to believe that Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer, ("Smith Committee, Inc.") violated 2 U.S.C. § 434(a)(6)(A), and determined to enter into preprobable cause conciliation negotiations with respondents that were directed towards resolution of the matter. It has now come to the attention of this Office that the proper respondents at issue in this matter are Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer, ("Smith Committee"). The attached General Counsel's Report recommends that the Commission rescind its reason to believe finding against the Smith Committee, Inc. and find reason to believe that the Smith Committee violated 2 U.S.C. § 434(a)(6)(A), and enter into preprobable cause conciliation.

Attachment  
General Counsel's Report

Staff Assigned: Tamara Kapper

97043774116

**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of )  
 ) MUR 4425  
Gordon Smith for U.S. Senate and )  
Greg Niedermeyer, as treasurer )

**GENERAL COUNSEL'S REPORT**

**I. BACKGROUND**

On July 30, 1996, the Federal Election Commission ("Commission") found reason to believe that Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer, ("Smith Committee, Inc.") violated 2 U.S.C. § 434(a)(6)(A) by failing to file one (1) forty-eight hour notification ("48 Hour Notice") for a contribution totaling \$100,000 which was drawn from a \$2,000,000 line of credit guaranteed by the candidate, Gordon Harold Smith.<sup>1</sup> On September 4, 1996, counsel for the Smith Committee, Inc. submitted a response to the Commission's reason to believe finding requesting that the Commission rescind its finding against the Smith Committee, Inc. because it was not in existence at the time in which the violation occurred. Attachment 1. According to an affidavit of Greg Niedermeyer attached to the response, Gordon Harold Smith has two (2) committees - one committee, Gordon Smith for U.S. Senate, is the principal campaign committee for the 1995 Special Primary Election in Oregon to fill the seat vacated by Senator Robert Packwood and the other committee, Gordon Smith for U.S. Senate Committee, Inc., is the principal campaign committee for

<sup>1</sup> This matter arose from a referral from the Reports Analysis Division ("RAD").

97043774117

the May 1996 Primary Election and the November 1996 General Election for the U.S. Senate seat held by retiring Senator Mark Hatfield.

Records on file at the Commission confirm that Gordon Harold Smith currently has two (2) principal campaign committees.<sup>2</sup> These two (2) committees were designated within the same election cycle and share the same treasurer, committee address and almost identical names. As a result, the referral materials this Office received from RAD incorrectly named the Smith Committee, Inc. as respondent, not the Smith Committee. It was the Smith Committee, which was created to serve as the candidate's principal campaign committee for the 1995 Special Primary Election, that failed to file the 48 Hour Notice at issue and should have been named in the RAD referral.<sup>3</sup> Accordingly, this Office recommends that the Commission rescind its finding that there is reason to believe Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A). This Office further recommends that the Commission find reason to believe that Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), and enter into conciliation with the Smith Committee prior to a finding of probable cause to believe.

<sup>2</sup> On September 14, 1995, Mr. Smith filed a Statement of Candidacy form designating Gordon Smith for U.S. Senate as his principal campaign committee for the December 5, 1995 Special Primary Election in the state of Oregon. On March 5, 1996, Mr. Smith filed another Statement of Candidacy form designating Gordon Smith for U.S. Senate Committee, Inc. as his principal campaign committee for the 1996 elections in the state of Oregon.

<sup>3</sup> After receiving the response from counsel for the Smith Committee, Inc. and determining that it was not the committee at issue, this Office contacted counsel to inform him that this Office would be recommending that the Commission rescind its reason to believe finding against the Smith Committee, Inc. and make the appropriate finding against the Smith Committee.

97043 / 74118

**II. RECOMMENDATIONS**


1. Rescind the finding that there is reason to believe Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).
2. Find reason to believe that Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the attached factual and legal analysis, proposed conciliation agreement, and the appropriate letters.

Lawrence M. Noble  
General Counsel

Date

9/27/94

BY:

  
Lois G. Lerner  
Associate General Counsel

**Attachments**

1. Response and Affidavit
2. Factual and Legal Analysis
3. Proposed Conciliation Agreement

Staff Assigned: Tamara Kapper

9704374119



BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
Gordon Smith for U.S. Senate and ) MUR 4425  
Greg Niedermeyer, as treasurer. )

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on October 1, 1996, the Commission decided by a vote of 5-0 to take the following actions in MUR 4425:

1. Rescind the finding that there is reason to believe Gordon Smith for U.S. Senate Committee, Inc. and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).
2. Find reason to believe that Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), and enter into conciliation prior to a finding of probable cause to believe.
3. Approve the factual and legal analysis, proposed conciliation agreement, and the appropriate letters, as recommended in the General Counsel's Report dated September 27, 1996.

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

Attest:

10-2-96  
Date:

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

Received in the Secretariat: Mon., Sept. 30, 1996 11:22 a.m.  
Circulated to the Commission: Mon., Sept. 30, 1996 4:00 p.m.  
Deadline for vote: Tues., Oct. 01, 1996 4:00 p.m.

lrd

9704377412C



**FEDERAL ELECTION COMMISSION**  
WASHINGTON, D.C. 20463

October 17, 1996

Greg Niedermeyer, Treasurer  
Gordon Smith for U.S. Senate  
5285 S.W. Meadows Road, Suite 181  
Lake Oswego, OR 97035

RE: MUR 4425  
Gordon Smith for U.S. Senate  
and Greg Niedermeyer, as treasurer

Dear Mr. Niedermeyer:

On July 30, 1996, the Federal Election Commission found that there was reason to believe Gordon Smith for U.S. Senate Committee, Inc. ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). On October 1, 1996, the Commission determined to rescind the reason to believe finding with regard to the Committee and, on that same date, the Commission found reason to believe that Gordon Smith for U.S. Senate ("Smith Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(6)(A). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath. In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

In order to expedite the resolution of this matter, the Commission has also decided to offer to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Enclosed is a conciliation agreement that the Commission has approved.

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign and return the agreement, along with the civil penalty, to the Commission. In light of the fact that conciliation negotiations, prior to a finding of probable cause to believe, are limited to a maximum of 30 days, you should respond to this notification as soon as possible.

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

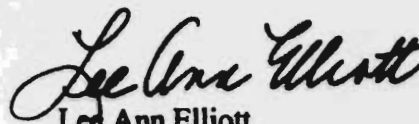
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If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other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

This matter will remain confidential in accordance with 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A), unless you notify the Commission in writing that you wish the investigation to be made public.

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Tamara Kapper, the staff member assigned to this matter, at (202) 219-3690.

Sincerely,



Lee Ann Elliott  
Chairman

**Enclosures**

Factual and Legal Analysis  
Procedures  
Designation of Counsel Form  
Conciliation Agreement

cc: Gordon Harold Smith  
John DiLorenzo, Jr., Esq.

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**FEDERAL ELECTION COMMISSION**

**FACTUAL AND LEGAL ANALYSIS**

**RESPONDENTS:** Gordon Smith for U.S. Senate  
and Greg Niedermeyer, as treasurer

**MUR 4425**

This matter was generated based on information ascertained by the Federal Election Commission ("the Commission") in the normal course of carrying out its supervisory responsibilities. See 2 U.S.C. § 437g(a)(2).

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The Federal Election Campaign Act of 1971, as amended, ("the Act") requires principal campaign committees of candidates for federal office to notify, in writing, either the Secretary of the Senate, the Clerk of the U.S. House of Representatives or the Commission, as appropriate, and the Secretary of State, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. *Id.* The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

Pursuant to 2 U.S.C. § 431(8)(A)(ii), the term "contribution" is defined as any gift, subscription, loan, advance, or deposit of money or anything of value made by any



person for the purpose of influencing any election for Federal office. According to 2 U.S.C. § 431(8)(A) and 11 C.F.R. § 100.7(a)(1)(B), a loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. Furthermore, each guarantor or endorser of a loan shall be deemed to have contributed that portion of the total amount of the loan for which the guarantor or endorser agreed to be liable until the loan is repaid. 2 U.S.C. § 431(8)(B)(vii)(I) and 11 C.F.R. § 100.7(a)(1)(i)(C).

According to its Statement of Organization filed with the Commission, Gordon Smith for U.S. Senate is a principal campaign committee for Gordon Harold Smith, a Senatorial candidate in the state of Oregon. Gordon Smith for U.S. Senate is Mr. Smith's principal campaign committee for the 1995 Special Primary Election. Greg Niedermeyer is the treasurer of the Gordon Smith for U.S. Senate.

The 1995 Special Primary Election for the Senate in the state of Oregon was held on December 5, 1995. Pursuant to the Act, Respondents were required to notify the Commission, in writing, of all contributions of \$1,000 or more received from November 16, 1995 to December 2, 1995, within 48 hours of their receipt. A review of the Smith Committee's 1995 12 Day Pre-General Report identified one (1) contribution received on November 28, 1995, totaling \$100,000 which was in the form of a loan drawn from a line of credit from the United States National Bank of Oregon to the Smith Committee. The contribution was reported on Schedules A and C-1 with the candidate, Gordon Harold Smith, listed as the sole guarantor of a \$2,000,000 credit line to the Smith Committee. Accordingly, the Smith Committee should have filed the

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48 Hour Notice for this contribution no later than November 30, 1995. The

Smith Committee failed to submit the required 48 Hour Notice for this contribution.

Therefore, there is reason to believe that the Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) by failing to report a campaign contribution of \$1,000 or more, received after the 20th day, but more than 48 hours before the Special Primary Election, within 48 hours of receipt of the contribution.

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**HAGEN, DYE, HIRSCHY & DILORENZO, P.C.**  
**ATTORNEYS AT LAW**

JOSEPH T. HAGEN \*\*†  
JEFFREY L. DYE  
JOHN A. HIRSCHY †  
JOHN A. DILORENZO, JR.  
DANA R. TAYLOR  
MARK A. GOLDING †  
KENNETH A. WILLIAMS

NINETEENTH FLOOR  
BENJ. FRANKLIN PLAZA  
ONE S.W. COLUMBIA STREET  
PORTLAND, OREGON 97238-2087  
(503) 222-1812  
FAX (503) 274-7979

ANNIE T. BUELL  
MICHAEL E. FARNELL \*  
DAVID E. GREEN †  
JOHN D. PARSONS  
ADAM S. RITTENBERG  
MELINDA LEAVER ROY  
BLANCHE I. SOMMERS  
AARON K. STUCKEY  
RAGNA L. TENEYCK \*\*†

\*Also admitted in Washington  
\*\*Also admitted in California  
\*\*\*Also admitted in Colorado  
†LLM in taxation

IN REPLY PLEASE REFER  
TO FILE NO.: 4436.011

November 5, 1996

VIA FACSIMILE 1-(202)-219-3923  
AND FIRST CLASS MAIL

Ms. Tamara Kapper  
Office of General Counsel  
Federal Election Commission  
Washington, D.C. 20463

Re: MUR 4425 - Gordon Smith for U.S. Senate  
Committee and Greg Niedermeyer, as  
Treasurer

Dear Ms. Kapper:

Enclosed please find the following in response to Chair Lee Ann Elliott's letter of October 17, 1996, and the Commission's Factual and Legal Analysis which was received by the Gordon Smith for U.S. Senate Committee and its Treasurer on October 21, 1996:

1. Statement of Designation of Counsel signed by Greg Niedermeyer, Treasurer of the Gordon Smith for U.S. Senate Committee.

2. Affidavit of Greg Niedermeyer dated November 5, 1996.

Essentially, the Affidavit admits the finding made by the Commission to the effect that the Committee failed to notify the Commission in writing, of a contribution exceeding \$1,000 within 48-hours of its receipt. The Affidavit, however, makes two points which should be considered by the Commission. First, the Affidavit states the general policy of the Committee to err on the side of reporting contributions. Not only did the Committee generally exceed the requirements of 11 CFR, it also provided the public with notice of the full \$2,000,000.00 line of credit (of which the "missed" contribution was a part) and the Press with notice of

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FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL

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**HAGEN, DYE, HIRSCHY & DiLORENZO, P.C.**  
**ATTORNEYS AT LAW**

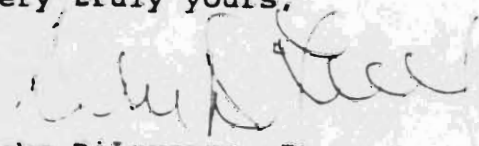
Ms. Tamara Kapper  
November 5, 1996  
Page - 2 -

contributions to the Committee on a regular basis. Second, the mitigating circumstances described by Mr. Niedermeyer concerning the admission of his daughter to the hospital for a life-threatening condition should certainly be taken into consideration. I venture to say that even the most attentive of us would have had his or her mind on the welfare of our child were we laboring under similar circumstances. Unfortunately, the personal crisis happened to coincide with the receipt of the one contribution for which there was no 48-hour report.

The regulatory scheme under 11 CFR is quite complex. Adherence to the requirements is a daunting task even for those who are continuously vigilant and attentive. The treasurer of the Committee admits that the mistake occurred. Certainly the facts and circumstances described in his Affidavit should be taken into consideration

We look forward to your response concerning our suggestion.

Very truly yours,

  
John DiLorenzo, Jr.

JAD/zan

Enclosures

cc: Honorable Gordon Smith (w/encls.)  
Greg Niedermeyer (w/encls.)

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**STATEMENT OF DESIGNATION OF COUNSEL**

MUR 4425

**NAME OF COUNSEL:** JOHN DiLORENZO, JR.  
**ADDRESS:** Hagen, Dye, Hirschy & DiLorenzo, P.C.  
One S.W. Columbia, Suite 1900  
Portland, Oregon 97258  
**TELEPHONE:** (503) 222-1812

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COMMISSION  
OFFICE OF 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.

Nov 5, 1996  
Date

[Signature]  
Signature

**RESPONDENT'S NAME:** GORDON SMITH FOR U.S. SENATE COMMITTEE AND GREG NIEDERMEYER  
**ADDRESS:** 5825 S.W. Meadows Road, Suite 181  
Lake Oswego, Oregon 97035  
**HOME PHONE:**  
**BUSINESS PHONE:** (503) 639-4156

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 )  
GORDON SMITH FOR U.S. SENATE ) MUR 4425  
COMMITTEE, )  
 ) AFFIDAVIT OF GREG NIEDERMEYER  
and )  
 )  
GREG NIEDERMEYER, as Treasurer )  
 )

STATE OF OREGON )  
 ) ss.  
County of Multnomah )

I, GREG NIEDERMEYER, being duly sworn do say:

1. That I am the treasurer of the Gordon Smith for U.S. Senate Committee, (a committee which served as Gordon Harold Smith's principal campaign Committee for the 1995 Special Oregon Election to replace Senator Robert Packwood.) This Committee was assigned FEC Identification No. C00306183, is currently a terminating Committee, and is only accepting contributions or making expenditures to pay its debts and expenses permitted by 11 CFR §1116. I make this affidavit in response to the Commission's finding of reason to believe that the Committee and I as treasurer have violated 2 USC §434(a)(6)(A).

2. I have reviewed the Commission's Factual and Legal Analysis and have investigated the circumstances referenced therein. I submit the following for your review and consideration.

3. The Committee has always taken seriously its reporting requirements under 11 CFR and has exceeded those requirements in most instances. For instance, the Committee opted to disclose all

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expenditures made by the Committee even though 11 CFR §104.9 only requires the reporting of expenditures which aggregate over \$200 within a calendar year to a person. The Committee also provided the local media upon request with information concerning the candidate's loans and, on a weekly basis, a detailed list of all other contributions received. With respect to the 48-hour period referenced in the Commission's Factual and Legal Analysis, the Committee reported the receipt of contributions up to the date of the election even though they were not required subsequent to 48-hours prior to the election.

4. As the treasurer of the Committee, I have also taken my responsibilities very seriously. Because I had not previously been a treasurer of a federal election campaign committee, I enrolled and participated in the Commission's Campaign Finance Law Seminar held at the Miyako Hotel in San Francisco on October 23 and 24 of 1995. As treasurer I established systems for insuring compliance with all of the contributions acceptance and reporting requirements. A review of the 48-hour reports for the period of November 16, 1995 to December 2, 1995 reflects that we accurately reported fifty of fifty-one reportable contributions. This translates to a 98% accuracy rate. In addition to reporting the foregoing contributions, the Committee also reported eight 48-hour contributions for the period December 3, 1995 to December 5, 1995.

5. My review of the file indicates that the Commission is correct when it observes that there was one contribution received on November 28, 1995, in the amount of \$100,000 which was in the

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form of a loan drawn from a line of credit from the United States National Bank of Oregon. The Commission is also correct in finding that the Smith Committee should have filed a 48-hour notice no later than November 30, 1995.

6. However, notwithstanding the Committee's failure to report that particular draw, the public was aware of the full \$2,000,000 line of credit, of which this draw was a part, because the existence of the credit line was fully reported in our report of November 1995. We also reported a \$150,000 draw on the line of credit on December 5, 1995, even though it was after the required reporting cutoff date. I mention this fact as evidence that it was the policy of the Committee to over-report, not under-report.

7. The failure of the Committee to properly file the 48-hour report is primarily due to circumstances which existed in my personal life surrounding the date the report was due. On November 27, 1995, the day prior to the Committee's receipt of the draw in question, one of my daughters was admitted to Providence Hospital in Portland, Oregon for what was considered a life-threatening condition. She could not be released until December 5, 1995. My personal efforts to cross-check all reportable transactions was deficient during the first few days of my daughter's hospitalization and is the reason why the Committee missed the reporting of this transaction.

7. The Committee has and continues to endeavor to exceed the requirements of the Federal Election Campaign Act. I therefore respectfully request that you consider our efforts in general and




the mitigating circumstances detailed above as a part of the  
calculas you will use to determine an appropriate penalty.

  
GREG NIEDERMEIER

SUBSCRIBED and SWORN to before me this 24 day of November,

1996.



  
Notary Public in and for Oregon  
My Commission Expires: 03 29 97

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

RECEIVED  
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COMMISSION  
OFFICE OF GENERAL  
COUNSEL

JAN 1 2 57 PM '97

January 7, 1997

**TWO WAY MEMORANDUM**

TO: OGC Docket

FROM: Rosa E. Swinton Accounting Technician Leslie D. Brown Disbursing Technician

SUBJECT: Account Determination for Funds Received

We recently received a check from Gordon Smith for U.S. Senate Committee General Election, check number 1506, dated December 10, 1996, for the amount of \$7,500.00. A copy of the check and any correspondence is being forwarded. Please indicate below which account the funds should be deposited and give the MUR/Case number and name associated with the deposit.

TO: Rosa E. Swinton Accounting Technician Leslie D. Brown Disbursing Technician

FROM: OGC Docket

SUBJECT: Disposition of Funds Received

In reference to the above check in the amount of \$7,500, the MUR/Case number is 4425 and in the name of Gordon Smith U.S. Sen. Place this deposit in the account indicated below: Kato Gm. LLC.

- ☒ Budget Clearing Account (OGC), 95F3875.16
- ☐ Civil Penalties Account, 95-1099.160
- ☐ Other: \_\_\_\_\_

Retha L. Difon  
Signature

1-7-97  
Date

GORDON SMITH FOR U.S. SENATE COMMITTEE  
GENERAL ELECTION  
5285 SW MEADOWS RD., STE. 181  
LAKE OSWEGO, OR 97035

1508

24-22  
1230 179

DATE December 10, 1996

PAY  
TO THE  
ORDER OF

Federal Election Commission

\$ 7,500.00

Seven thousand five hundred and no/100

DOLLARS



SW. 2ND & COLUMBIA BRANCH  
1340 SW. 2ND AVE., PORTLAND, OR 97201  
UNITED STATES NATIONAL BANK OF OREGON

FOR

by: *John D. [Signature]*  
by: *Virginia T. Eiken*

⑆001506⑆ ⑆123000220⑆ 179 0099 568⑆

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BEFORE THE FEDERAL ELECTION COMMISSION ON Dec 11 '97

In the Matter of )

) MUR 4425

Gordon Smith for U.S. Senate )

and Greg Niedermeyer, as treasurer )

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

I. BACKGROUND

On October 1, 1996, the Commission found reason to believe that Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer, ("Smith Committee") violated 2 U.S.C. § 434(a)(6)(A) by failing to file to file one (1) forty-eight hour notification ("48 Hour Notice") for a \$100,000 contribution drawn from a \$2,000,000 line of credit ascertained by the candidate, Gordon Harold Smith, as an agent of the Smith Committee. On that same date, the Commission also determined to offer to enter into preprobable cause conciliation negotiations with the Smith Committee and approved a proposed conciliation agreement

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III. RECOMMENDATIONS

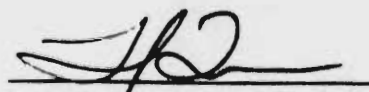
1. Accept the attached conciliation agreement with Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer.
2. Close the file.
3. Send the appropriate letter.

Lawrence M. Noble  
General Counsel

Date

1/15/97

BY:



Lois G. Kerner  
Associate General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

Gordon Smith for U.S. Senate and  
Greg Niedermeyer, as treasurer.

)  
)  
) MUR 4425  
)

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on January 22, 1997, the Commission decided by a vote of 5-0 to take the following actions in MUR 4425:

1. Accept the conciliation agreement with Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer, as recommended in the General Counsel's Report dated January 15, 1997.
2. Close the file.
3. Send the appropriate letter, as recommended in the General Counsel's Report dated January 15, 1997.

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

Attest:

1-23-97  
Date

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

Received in the Secretariat: Thurs., Jan. 16, 1997 2:00 p.m.  
Circulated to the Commission: Thurs., Jan. 16, 1997 4:00 p.m.  
Deadline for vote: Wed., Jan. 22, 1997 4:00 p.m.

bjr

97043774137



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

January 27, 1997

John DiLorenzo, Jr., Esquire  
Hagen, Dye, Hirschy & DiLorenzo, P.C.  
19th Floor, Ben Franklin Plaza  
1 SW Columbia Street  
Portland, OR 92758-2087

RE: MUR 4425  
Gordon Smith for U.S. Senate and  
Greg Niedermeyer, as treasurer

Dear Mr. DiLorenzo:

On January 22, 1997, the Federal Election Commission accepted the signed conciliation agreement and civil penalty that you submitted on your clients' behalf in settlement of a violation of 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). Accordingly, the file has been closed in this matter.

The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

*Celebrating the Commission's 20th Anniversary*

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

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Mr. DiLorenzo, Esq.  
Page 2

Enclosed you will find a copy of the fully executed conciliation agreement for your files.  
If you have any questions, please contact me at (202) 219-3690.

Sincerely,



Tamara Kapper  
Paralegal

Enclosure  
Conciliation Agreement

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**BEFORE THE FEDERAL ELECTION COMMISSION**

In the Matter of

Gordon Smith for U.S. Senate and  
Greg Niedermeyer, as treasurer

)

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MUR 4425

**CONCILIATION AGREEMENT**

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities.

The Commission found reason to believe that the Gordon Smith for U.S. Senate and Greg Niedermeyer, as treasurer ("Respondents"), violated 2 U.S.C. § 434(a)(6)(A).

NOW, THEREFORE, the Commission and the Respondents, having participated in informal methods of conciliation, prior to a finding of probable cause to believe, do hereby agree as follows:

I. The Commission has jurisdiction over the Respondents and the subject matter of this proceeding, and this agreement has the effect of an agreement entered pursuant to 2 U.S.C. § 437g(a)(4)(A)(i).

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

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

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

1. Gordon Smith for U.S. Senate is a political committee within the meaning of 2 U.S.C. § 431(4), and is the authorized principal campaign committee for Gordon Harold Smith's 1995 Special Primary Election senatorial campaign in the state of Oregon.

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2. Greg Niedermeyer is the treasurer of Gordon Smith for U.S. Senate.

3. The Federal Election Campaign Act of 1971, as amended ("the Act"), requires principal campaign committees of candidates for federal office to notify, in writing, either the Secretary of the Senate, the Clerk of the U.S. House of Representatives or the Commission, as appropriate, and the Secretary of State, of each contribution totaling \$1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the identification of the contributor. Id. The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

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

5. According to 2 U.S.C. § 431(8)(A) and 11 C.F.R. § 100.7(a)(1)(B), a loan is a contribution at the time it is made and is a contribution to the extent that it remains unpaid. Each guarantor or endorser of a loan shall be deemed to have contributed that portion of the total amount of the loan for which the guarantor or endorser agreed to be liable until the loan is repaid. 2 U.S.C. § 431(8)(B)(vii)(I) and 11 C.F.R. § 100.7(a)(1)(i)(C).

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6. On October 31, 1995 the candidate, Gordon Smith, received a line of credit totaling \$2,000,000 from the United States National Bank of Oregon as an agent of Respondents. Mr. Smith was listed as the principal on this line of credit. Respondents disclosed this line of credit on their 1995 12 Day Pre-Primary Report which they filed on November 20, 1995.

7. On November 28, 1995, Respondents received a \$100,000 contribution in the form of a loan from the aforementioned line of credit from the United States National Bank of Oregon.

8. Since the \$100,000 contribution was received by the Smith Committee after the 20th day but more than 48 hours before the December 5, 1995 special senate primary election held in the state of Oregon, Respondents should have filed a 48 Hour Notice for this contribution no later than November 30, 1995. Respondents failed to submit a 48 Hour Notice for this contribution.

9. The \$100,000 contribution was not reported by Respondents until they filed their 1995 Year End Report on January 18, 1996.

10. Respondents have submitted an affidavit from Greg Niedermeyer, the treasurer, stating that on November 27, 1995, the day prior to receipt of the \$100,000 draw referenced above, one of the treasurer's daughters was admitted to Providence Hospital in Portland, Oregon for what was considered a life threatening condition. The affidavit further states that she could not be released until December 5, 1995. Respondents contend that the treasurer's personal efforts to cross-check all reportable transactions were distracted during the

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first few days of his daughter's hospitalization and is the reason why the committee missed the reporting of the above-referenced transaction.

V. Respondents failed to report a campaign contribution of \$1,000 or more received after the 20th day, but more than 48 hours before the 1995 Special Primary Election, within 48 hours of receipt of the contribution, in violation of 2 U.S.C. § 434(a)(6)(A).

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

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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

X. This Conciliation Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral,

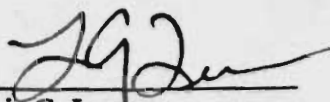
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made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

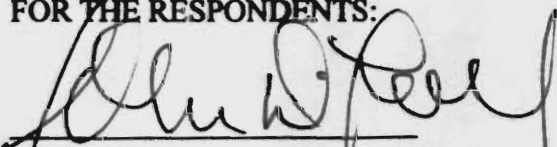
FOR THE COMMISSION:

Lawrence M. Noble  
General Counsel

BY:   
Lois G. Lerner  
Associate General Counsel

1/27/97  
Date

FOR THE RESPONDENTS:

  
(Name) John DiLorenzo, Jr.  
(Position) Attorney for Respondents

12-27-96  
Date

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4425

DATE FILMED 2-8-97 CAMERA NO. 4

CAMERAMAN JMD

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