



FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

THIS IS THE BEGINNING OF MUR # 3080

DATE FILMED 10/31/90 CAMERA NO. 4

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**ERTL**  
FOR CONGRESS

066 6453  
RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

90 JUN -6 AM 11:29

June 1, 1990

Federal Elections Commission  
999 E Street N.W.  
Washington, D.C. 20463

Gentlemen or Mesdames:

I am enclosing copies of my correspondence to the Iowa State Bar Association and the President of The Ertl Company, Inc. It seems to us that the Chief Executive Officer of The Ertl Company, Inc. has involved the company itself in this political campaign, and I wish to report this to you and ask that you conduct whatever investigation you feel appropriate as to the propriety of this action.

Very truly yours,

*Carolyn J. Seeley*

Carolyn J. Seeley  
Campaign Manager  
Joe Ertl Campaign

Enc.

90 JUN -6 PM 3:17

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF LEGAL COUNSEL

**ERTL**  
FOR CONGRESS

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

90 JUN -6 AM 11:28

June 1, 1990

Mr. Edgar F. Hansell, President  
Iowa State Bar Association  
1101 Fleming Building  
Des Moines, IA 50309

Dear Mr. Hansell:

I am enclosing copies of two letters and a press release, all on the letterhead of the law firm of Klinger, Robinson, McCuskey & Ford of Cedar Rapids. I am not familiar with the rules of the Bar Association, but it seemed inappropriate to me that law firms would be issuing press releases in political campaigns, especially on firm stationary. It seems equally inappropriate that they send letters referring to "Candidacy of Joseph Ertl for Second District Congressman from the State of Iowa", written on behalf of an Iowa corporation - The Ertl Company, Inc., as well as personally on behalf of Fred F. Ertl, Jr., the Chief Executive Officer of that company.

I have no idea as to whom that letter was sent and as to how broad a coverage it had, but the heading "Ladies and Gentlemen" would indicate a broad dissemination.

I would greatly appreciate being advised as to the propriety of this. If you advise that it is a proper conduct, then I will, of course, accept that. However, if it is improper I would hope that some formal advice to that effect would be directed to the Klinger law firm.

I am sure the Klinger firm would have done nothing intentionally. Even so, if it was improper we would appreciate whatever action you feel is appropriate.

Thank you for your attention to the matter.

Very truly yours,

Carolyn J. Seeley  
Campaign Manager  
Joe Ertl Campaign

Enclosures

KLINGER, ROBINSON, McCUSKEY & FORD  
ATTORNEYS AT LAW  
401 OLD MARION ROAD N.E.  
CEDAR RAPIDS, IOWA 52402

ROBERT E. FORD  
PHILLIP D. KLINGER  
GARY L. ROBINSON  
THOMAS G. McCUSKEY\*  
LORRAINE K. SNEAD  
KIMBERLY A. TEN EICK  
JEFFREY D. TAYLOR

TELEPHONE  
(319) 395-7400  
CABLE: TESTHUB  
FACSIMILE  
(319) 395-0041

\*ALSO ADMITTED IN ARIZONA

May 25, 1990

Gentlemen:

I enclose a press release issued on behalf of our client, The Ertl Company, Inc. of Dyersville, Iowa. This press release is for immediate use.

If you have any questions regarding same, please contact the undersigned.

Thank you for your consideration.

Phillip D. Klinger

PDK:ta

9 0 0 4 0 3 1 0 0

KLINGER, ROBINSON, MCCUSKEY & FORD  
ATTORNEYS AT LAW  
401 OLD MARION ROAD N.E.  
CEDAR RAPIDS, IOWA 52402

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JEFFREY P. TAYLOR

TELEPHONE  
(319) 365-7400  
CABLE: TESHUB  
FACSIMILE  
(319) 365-4041

May 25, 1990

\*ALSO ADMITTED IN ARIZONA

Press Release

Because of misunderstanding on part of the public linking Joseph Ertl a candidate for Iowa's Second District Congressional Seat, with The Ertl Company, Inc., of Dyersville, The Ertl Company deems it necessary to clarify matters as follows:

1. Joseph Ertl is not now, nor has he been, affiliated with The Ertl Company, Inc., of Dyersville, Iowa, since prior to 1970.
2. Neither The Ertl Company, Inc., nor its Chief Executive Officer, Fred F. Ertl, Jr., have endorsed, nor does either of them intend to endorse or support, Joseph Ertl's candidacy in the future.
3. Any inferences made by the candidate, or drawn by the public, or the press, contrary to the items set forth above, are totally without foundation.
4. Contact Person: Phillip D. Klinger  
(319) 366-1610

ROBERT E. FORD  
PHILLIP D. KLINGER  
GARY L. ROBINSON  
THOMAS G. McCUSKEY\*  
LORRAINE K. SNEAD  
KIMBERLY A. TEN EICK  
JEFFREY P. TAYLOR

**May 25, 1990**

•ALSO ADMITTED IN ARIZONA

**Ladies & Gentlemen:**

PDK:ta

**ERTL**  
FOR CONGRESS

June 1, 1990

Mr. George Volanakis, President  
The Ertl Company, Inc.  
Dyersville, IA 52040

Dear Mr. Volanakis:

It appears to us that your Chief Executive Officer, Fred F. Ertl, Jr., is bringing The Ertl Company, Inc. into the campaign for the 2nd District Congressman both through his own personal correspondence with the newspapers and the ensuing articles, and through his attorney's letters and press releases. These releases speak for not just Fred F. Ertl, Jr., but for The Ertl Company, Inc. as well. I am enclosing copies of the Fred F. Ertl, Jr. letter and the Klinger, Robinson, McCuskey & Ford law firm press release and other correspondence, each reflecting that they are speaking for both The Ertl Company, Inc., and Fred F. Ertl, Jr.

You will find in checking all of our campaign material that at no time do we make any representation that Joe Ertl is with The Ertl Company, Inc., and most certainly no representation that The Ertl Company, Inc. is supporting him. Fred F. Ertl, Jr. is simply setting up a straw man to knock down.

I am sending you the only two pieces of campaign material of which I am aware that even mention your company. You will see from that material it is very clear that Joe left your company 20 years ago in 1970.

It seems to us that Fred F. Ertl, Jr. who, from his letter of May 29, 1990 represents himself to be a Moldenhauer backer, is using The Ertl Company, Inc.'s name to further his own personal political objectives.

We feel that to be inappropriate and we hope you will also.

Very truly yours,

Carolyn J. Seeley  
Campaign Manager  
Joe Ertl Campaign

Enc.

cc: David H. Clarke, Director & President  
Hanson Industries  
99 Wood Avenue South  
Iselin, New Jersey 08830

Fred Ertl, Jr.  
217 Country Club Drive  
Thunder Hills Estates  
Peosta, Iowa 52068

May 29, 1990

LETTER TO THE EDITOR:

I want everyone to know that brother Joseph Ertl, who is a candidate against Wayne Moldenhauer for the Republican nomination for Second District Congressman from the State of Iowa, is not now, nor has he been, affiliated with The Ertl Company, Inc. of Dyersville, Iowa since prior to 1970.

Neither the Ertl Company nor I endorse or support Joseph Ertl's candidacy. While Joe operates a small family toy company, Scale Models Inc., he is not in anyway connected with me or The Ertl Company, Inc. I have been approached by many who think I am the candidate or that the Ertl Company is involved but that is not true at all and I want to clear up all such misconceptions.

I personally am a Moldenhauer backer and have contributed \$1000 to his primary campaign. Never before have I contributed this much to any campaign. But, I feel strongly that Moldenhauer must win this primary election if republicans want a chance to retain Tom Tauke's seat in Congress. Wayne has a great deal of varied public service experience and has been involved with large sums of money through his public service involving the city of Dubuque as its mayor and on the Dubuque Community School board. His involvement as mayor with Dubuque business and industry makes him uniquely qualified.

Wayne also is a lifelong republican [as I am], who has worked for republican causes and the election of President Bush, Representative Tauke, Governor Branstad, Senator Grassley and others [as I have]. Joe Ertl was a democrat until recently and to my knowledge has not openly supported republican causes in the past.

Fellow republicans--if you want a republican in Washington---not a recent turncoat democrat who may revert to democrat stances, I urge you to financially back and vote for Wayne Moldenhauer.

Very truly yours,

*Fred Ertl, Jr.*  
Fred Ertl, Jr.

Home PH: 583-9568  
Office PH: 875-2000

dm



# ERTL

## FOR CONGRESS

Joseph Ertl was born in 1935 in Dubuque, the second largest town in Iowa's Second Congressional District. At the age of ten he began working in his father's factory, Ertl Toys. It is through his association with the Ertl Toy Company and his own business that the Ertl name has become familiar across Eastern Iowa.

Joe lived and worked in Dubuque until 1960, attending Loras Academy, Loras College, and working as an engineer in his father's company. In 1970 Joe left the family business to found and operate Dyersville Die Cast. He followed that up in 1977 by returning to the toy business and founding Scale Models. Today Joe has three plants across the Second District (Cascade, Dyersville, and Farley).

In 1969 Joe bought his first farm and began raising corn and soybeans. Since then Joe and his son, Don, have been active in the local agricultural community.

For the last fifteen years Joe has served on the Western Dubuque School Board, geographically the largest district in Iowa. For the past six years he has served on the Iowa Association of School Boards' Board of Directors.

In his time away from the campaign trail Joe devotes his attention to his wife of thirty-one years, Helen, their three children and two grandchildren.

Joe's charitable activities have been numerous. Joe helped to establish a \$1 million endowment fund for Beckman High School. He founded and donated land to Progress Inc., a sheltered workshop for the mentally and physically handicapped. Joe has made extensive donations of his own land to the city of Dyersville for use as city parks. And another thirty acres of land was donated to a local church which is now the site for low income housing. He also is known for his donations of toys to needy children at Christmas. Last year 2,000-3,000 toys were distributed through-out the area.

Joe is an active supporter and contributor to Loras College and St. Francis Xavier's Basilica, and is a sustaining member of the Boy Scouts of America and the Girl Scouts. He is a member of the Farm Bureau, Lions Club, Knights of Columbus, National Rifle Association, Aircraft Owners and Pilots Association, and the Society of Die Cast Engineers.

Joe's hobbies include flying, boating, hunting, fishing, tennis, and he has recently taken up snow skiing.

# Business

## Ertl: A model businessman

Slow and easy brings success

By Sue Blocker  
of the Telegraph-Herald

DYERSVILLE, Iowa — It was a sweet deal.

A manufacturing company wanted Joe Ertl to expand his Scale Models toy operation. The company would pay for the expansion and provide enough new business to make the growth necessary.

What could go wrong? the company said.

But Ertl wasn't buying.

His business was fine the way it was, thank you.

The manufacturer pulled its business with Ertl and offered the deal to another toy company. About three years later, both companies were in financial trouble.

Ertl's caution with that deal reflects his approach to life. Steady as she goes, don't try to do too much too fast.

"Don't risk everything you have on something you don't need," is one of his axioms.

Ertl isn't entirely averse to risks, though. There has to be good reason to take a chance.

Take his decision to start a die-casting operation, for example.

He was 30 and vice president at a very successful, national toy company when he decided to start out on his own.

The toy manufacturer was Ertl Co., founded by Joe Ertl's father, Fred Sr. The Ertls had operated the company as a family business from 1945 to 1967. That year they sold to Victor Comptometer Corp., a firm with \$200 million in sales.

Three years later, Joe left the company.

"I didn't like the bureaucracy of a big corporation," he said. He decided he must either do something new or stay here at Ertl Co. forever.

He started Dyersville Die Casting in 1970. The early years were not easy, but he never regretted the decision.

"You didn't have a whole lot, period," he said. "Everybody pitched in and helped. We could see it was a good thing."

The move turned out to be "the best thing I've done."

Ertl got back into the toy business in 1973 when White Farm Equipment approached him about making model tractors for the company. Scale Models was born, and has been growing — gradually — ever since.

From that single contract, Scale Models has increased its business so that it now manufactures about 190

### The Ertl file

Born: Oct. 12, 1935; Dubuque

Education: graduated Loras Academy, 1953. Attended Loras College

Family: wife, Helen; children Jane McClean, Julie Jensen and son, Don

Activities: Board member, Western Dubuque Community School Board; board member, Progressive, Inc., a sheltered workshop; past member of the Iowa Association of School Boards

different projects, from peddle tractors to model car kits to novelty items like belt buckles and sculptures.

He now has 80 employees at Dyersville Die Casting and at Scale Models operations in Dyersville and Cascade.

"I don't like to go too fast at any one point," he said.

Toymaking seems to be in the Ertl family bloodstream.

Ertl was 10 when his father started the business in the basement of the family home in Dubuque. On strike from a Dubuque foundry, Fred Sr. started making toys and selling them to implement dealers. The dealers gave the replicas away as promotional items.

The five Ertl sons and their sister were put to work.

Joe tapped holes in the castings and put details on the finished product.

After graduating from Loras Academy, he started at Loras College's engineering program, which called for two years of work at Loras and another three at Iowa State University at Ames.

At that time, my dad's business was going pretty good," Ertl said. "He needed someone to do design and engineering."

So the middle Ertl boy left college to join the business and design toys.

The toy business, Ertl said, has provided him with good friends and good fun.

"You're creating something, and you think, 'Some kid will enjoy this,'" he said.

Ertl said he wants all his employees to enjoy their work. He said he's a fairly lenient manager.

"I know what it's like to be under the gun," he said. "I like to see my people work under mild

supervision. But sometimes you have to get tough, too."

His daughter, Jane McClean, corporate secretary and office manager, said Ertl is "extremely fair. He doesn't judge anybody before he works with them."

Ertl challenges his three children, who now work for the company. In addition to Jane, his daughter Julie Jensen is the bookkeeper and his son Don operates the die-casting business.

He always asks for opinion. And we always have one," Jane said. "He makes us become better. We are told to think."

Long time friend Bridget Kluesner of Dubuque said Ertl has given a lot of people an opportunity to grow in their positions. They have a little more responsibility each year.

Ertl's interest in people takes him outside his company.

His concerns are very broad. He is willing to put himself out to really help," said the Rev. Stanley Hayek, pastor at St. Francis Xavier in Dyersville.

An example Hayek used was Scale Models' Christmas project. For the past two years, Ertl has donated brand new farm toys to needy children. His workers have donated their time to make the toys.

Kluesner remembered a more personal incident.

When her first husband died, Kluesner was left with three young children. Ertl saw it for the first few years that my kids had Christmas. I don't think there was a week that went by that he or his wife didn't stop off or call."

Ertl also has dedicated his time to the Western Dubuque Community School Board — serving on the board since 1974.

School Superintendent Wayne Drexler said Ertl is a dedicated board member. "He has a tremendous business mind. He has the ability to grasp budget figures and contracts very easily."

As a board member, Ertl said he can be "bullet proof" — he can make decisions he thinks are best without having to worry about criticisms of suppliers.

He says what he believes," Drexler said. "Everybody doesn't always agree with Joe, but he's a leader."

Aside from his work on the school board and at Scale Models, Ertl divides his leisure time among a variety of activities. Golf, tennis, boating and fishing are some of his interests. And his children finally got him out on the golf course this winter.

He particularly likes boating and said it has been the Mississippi



River that has kept him in the area.

Ertl also owns a 240-acre farm with his son, Don. "I go down there and help. It makes you realize where it all began."

If it weren't for the farmers, there wouldn't be a Scale Models, he added.

Another of Ertl's interests is farm life at Scale Models. It is a mini farm, but museum he has assembled during his years in the business from theme donations.

Among the many glass displays cases is one dedicated to his father, Fred. There also is a small feature the first tractor Ertl owned — in 1938.

Find of place among the toys is a sculpture of David slaying Goliath, which the company produced as a premium item for the PTT Club.

The piece is not symbolic of Ertl's plans for Scale Models, though. The company is not looking to say any Goliaths of the toy manufacturing world.

"I have no desire to become a huge corporation. Nor do I have any ideas to sell," Ertl said.

He only wants to establish the company in a stronger position in the toy market.

His purpose, after all, is more than just making something to show a boss.

**ERTL**  
FOR CONGRESS

I would appreciate your vote on June 5, 1990.

4652 First Avenue NE  
P.O. Box 2841  
Cedar Rapids, Iowa 52406-2841  
319-378-1010

Paid for by Ertl for Congress

*Joe Ertl*





FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

June 11, 1990

Carolyn J. Seeley  
Campaign Manager  
Joe Ertl Campaign  
4652 First Avenue  
P.O. Box 2841  
Cedar Rapids, Iowa 52406-2841

Dear Ms. Seeley:

This is to acknowledge receipt on June 6, 1990, of your letter dated June 1, 1990. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter did not contain a notarization on your signature and was not properly sworn to.

You must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. A statement by the notary that the complaint was sworn to and subscribed before him/her will be sufficient. We are sorry for the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

If you have any questions concerning this matter, please contact Retha Dixon, Docket Chief, at (202) 376-3110.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

*Lois G. Lerner*  
Lois G. Lerner  
Associate General Counsel

cc: Respondent

2 JLC 4033107



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

June 11, 1990

George Volanakis, President  
The Ertl Company, Inc.  
Dyersville, IA 52040

Dear Mr. Volanakis:

On June 6, 1990, the Federal Election Commission received a letter alleging that you violated sections of the Federal Election Campaign Act of 1971, as amended. As indicated from the copy of the enclosed letter addressed to the complainant, those allegations do not meet certain specified requirements for the proper filing of a complaint. Thus, no action will be taken on this matter unless the allegations are refiled meeting the requirements for a properly filed complaint. If the matter is refiled, you will be notified at that time.

This matter will remain confidential for 15 days to allow for the correction of the defects. If the defects are not cured and the allegations are not refiled, no additional notification will be provided and the file will be closed.

If you have any questions, please call Retha Dixon, Docket Chief, at (202) 374-3110.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

*Lois G. Lerner*  
Lois G. Lerner  
Associate General Counsel

Enclosures

Copy of Improper Complaint  
Copy of letter to the Complainant

**ERTL**  
FOR CONGRESS

RECEIVED  
FEDERAL ELECTION COMMISSION  
FAC FOLIO

90 JUN 25 AM 11:18

June 19, 1990

**MUR 3080**

Lois G. Lerner  
Associate General Counsel  
Federal Election Commission  
999 E. Street N.W.  
Washington, D.C. 20463

Dear Ms. Lerner:

Please consider this a formal complaint, duly signed and notarized, regarding what may be corporate intervention in a congressional campaign.

My original letter of June 1, 1990, and the documentation which accompanied said letter should still be on file in your office, however, I am enclosing copies my letter of June 1, and the documentation that accompanied it. Also enclosed is a copy of my most recent communication with the Iowa State Bar Association.

As of July 1, 1990, your questions and comments regarding this situation should be directed to me at the address and phone number listed below.

Thank you for your prompt attention to this matter.

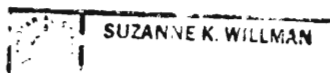
Most sincerely,

*Carolyn Seeley*

Carolyn Seeley  
Campaign Manager  
Joe Ertl Campaign  
640 N. Cedar  
Monticello, Iowa 52310  
PH: (319) 465-3221

cc: T. Collins  
Enclosures

Subscribed and sworn to before me this 20th day of JUNE, 1990.



*Suzanne K. Willman*  
Notary Public in and for the  
State of Iowa

RECEIVED  
FEDERAL ELECTION COMMISSION  
OFFICE OF GENERAL COUNSEL  
90 JUN 25 PM 1:26

# ERTL

FOR CONGRESS

June 1, 1990

Federal Elections Commission  
999 E Street N.W.  
Washington, D.C. 20463

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Very truly yours,

Carolyn J. Seeley  
Campaign Manager  
Joe Ertl Campaign

Enc.

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FOR CONGRESS

June 1, 1990

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Very truly yours,

Carolyn J. Seeley  
Campaign Manager  
Joe Ertl Campaign

Enclosures

KLINGER, ROBINSON, McCUSKEY & FORD

ATTORNEYS AT LAW

401 OLD MARION ROAD N.E.

CEDAR RAPIDS, IOWA 52402

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KIMBERLY A. TEN FICK  
JEFFREY P. TAYLOR

TELEPHONE  
610/303-7400  
CABLE: TENDUB  
FACSIMILE  
610/303-0841

\*ALSO ADMITTED IN ARIZONA

May 25, 1990

Gentlemen:

I enclose a press release issued on behalf of our client, The Ertl Company, Inc. of Dyersville, Iowa. This press release is for immediate use.

If you have any questions regarding same, please contact the undersigned.

Thank you for your consideration.

Phillip D. Klinger

PDK:ta

0004033112



KLINGER, ROBINSON, McCUSKEY & FORD  
ATTORNEYS AT LAW  
401 OLD MARION ROAD N.E.  
CEDAR RAPIDS, IOWA 52402

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THOMAS G. McCUSKEY\*  
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KIMBERLY A. TEN EICK  
JEFFREY P. TAYLOR

TELEPHONE  
(319) 395-7400  
CABLE: TESHUB  
FACSIMILE  
(319) 395-4004

May 25, 1990

\*ALSO ADMITTED IN ARIZONA

Press Release

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2. Neither The Ertl Company, Inc., nor its Chief Executive Officer, Fred F. Ertl, Jr., have endorsed, nor does either of them intend to endorse or support, Joseph Ertl's candidacy in the future.
3. Any inferences made by the candidate, or drawn by the public, or the press, contrary to the items set forth above, are totally without foundation.
4. Contact Person: Phillip D. Klinger  
(319) 366-1610

9 0 0 4 0 8 0 3 1 3

KLINGER, ROBINSON, MCCUSKEY & FORD

ATTORNEYS AT LAW

401 OLD MARION ROAD N.E.

CEDAR RAPIDS, IOWA 52402

ROBERT E. FORD

PHILIP D. KLINGER

GARY L. ROBINSON

THOMAS G. MCCUSKEY

JOHN A. SNEAD

KIMBERLY A. TENER

DEBRA J. LAYTON

TELEPHONE

(319)395-7400

CABLE TELETYPE

FACSIMILE

(319)395-7401

May 25, 1990

\*ALSO ADMITTED IN ARIZONA

RE: Candidacy of Joseph Ertl for Second District  
Congressman from the State of Iowa

Ladies & Gentlemen:

Our client, The Ertl Company, Inc. of Dyersville, Iowa, has made the request that we contact each of you and notify you of certain aspects regarding the candidacy of Joseph Ertl for the Republican nomination for Second District Congressman from the State of Iowa.

Joseph Ertl is not now, nor has he been, affiliated with The Ertl Company, Inc. of Dyersville, Iowa, since prior to 1970.

Neither The Ertl Company, Inc. nor its chief executive officer, Fred F. Ertl, Jr., have endorsed nor do either of them intend to endorse or support Joseph Ertl's candidacy in the future.

We would anticipate, on behalf of our clients, that you will refrain from making statements or giving inferences in the future that the candidate is affiliated with The Ertl Company, Inc. of Dyersville, Iowa. (These inferences are totally without foundation.)

If you have any questions relative to this, please feel free to contact us at your convenience.

Sincerely yours,

KLINGER, ROBINSON, MCCUSKEY  
& FORD

Phillip D. Klinger

PDX:ta

THE  
IOWA STATE BAR ASSOCIATION



Edgar F. Hansell,  
President  
1900 Hub Tower  
Des Moines, Iowa 50309  
515/283-3150

June 6, 1990

Mr. Norman G. Bastemeyer  
Attorney at Law  
1101 Fleming Building  
Des Moines, Iowa 50309

Dear Norm:

Enclosed is a copy I received from Carolyn J. Seeley,  
Campaign Manager for the Joe Ertl Campaign, which letter is self-  
explanatory. Will you please respond as appropriate.

Very truly yours,

Edgar F. Hansell

gir

Enclosure

cc: Allen E. Brennecke  
Carroll J. Reasoner  
John D. Shors  
Carl V. Nielsen  
Carolyn J. Seeley

511303400

Handwritten initials or signature.

THE  
IOWA STATE BAR ASSOCIATION



Norman G. Bastemeyer,  
Ethics Administrator  
Committee on Professional  
Ethics & Conduct  
1101 Fleming Building  
Des Moines, Iowa 50309-4098  
Telephone 515-243-3179  
Fax 515-243-2511

June 11, 1990

Ms. Carolyn J. Seeley  
Campaign Manager, Joe Ertl Campaign  
P.O. Box 2841  
Cedar Rapids, IA 52406-2841

In re: Phillip D. Klinger

Dear Ms. Seeley:

Mr. Edgar Mansell, President of the Iowa State Bar Association, has referred your letter of June 1, 1990, and enclosures to me. Any complaint of ethical violation by an attorney is properly directed to the Committee on Professional Ethics and Conduct of the Iowa State Bar Association. The Committee, by Supreme Court Rule, can only issue an opinion as to the propriety of proposed action. If the inquiry involves an event or act that has already occurred, the Committee could only make a determination in response to a complaint alleging an ethical violation. In addition, by Supreme Court Rule, the Committee can only issue formal opinions upon request of an Iowa attorney or Judge. As a consequence, we are unable to provide you with an opinion because you are neither an attorney nor does the action questioned involve proposed conduct.

The Committee would, however, make a determination as to the propriety of the conduct alleged, upon receipt of a complaint alleging it to be an ethical violation. We are therefore enclosing a complaint form as well as returning the attachments to your letter of June 1, 1990, in the event you wish to file a complaint alleging an ethical violation by Mr. Klinger. The rules further require that your signature on the complaint form be acknowledged before a notary public.

FOR THE COMMITTEE ON  
PROFESSIONAL ETHICS AND CONDUCT

A handwritten signature in cursive script, reading "Norman G. Bastemeyer", is written over a horizontal line.

NGB/vie  
Enclosures

# ERTL

FOR CONGRESS

June 19, 1990

Mr. Norman G. Bastemeyer,  
Ethics Administrator  
Committee on Professional  
Ethics and Conduct  
1101 Fleming Building  
Des Moines, Iowa 50309-4098

In re: Phillip D. Klinger

Dear Mr. Bastemeyer:

Enclosed please find a duly signed and notarized "Iowa State Bar Association Complaint Form" regarding Phillip D. Klinger.

I am also enclosing my original letter to Mr. Edgar Hansell which is dated June 1, 1990, and the documentation which was enclosed with the June 1 inquiry.

As of July 1, 1990, your questions and comments regarding this situation should be directed to me at the address and phone number listed below.

Thank you for your prompt attention to this matter.

Most sincerely



Carolyn J. Seeley  
Campaign Manager  
Joe Fritl Campaign  
640 N. Cedar  
Monticello, Iowa 52310

PH: (319) 465-3231

cc: T. Collins

Enclosures

THE IOWA STATE BAR ASSOCIATION  
COMPLAINT FORM

Re Phillip D. Klinger (Name of Attorney)

of Cedar Rapids, Iowa, Zip Code 52402

I, Carolyn J. Seeley, residing at 640 N. Cedar  
(complainant)

, in the City of Monticello,

State of Iowa, Zip Code 52310, Telephone Number: (319)

465-3221 hereby complain that Phillip D. Klinger,

whose <sup>business</sup> address is 401 Old Marion Road NE, Cedar Rapids, Iowa 52402  
has violated the Rules of Ethics and Conduct of the Legal Profession in that:

(Here explain the basis for the complaint.)  
(Additional pages may be attached if necessary.)

PLEASE SEE DOCUMENTATION ATTACHED

IN FILING THIS COMPLAINT, THE UNDERSIGNED HEREBY WAIVES THE ATTORNEY-  
CLIENT PRIVILEGE BETWEEN COMPLAINANT AND THE ABOVE NAMED ATTORNEY.

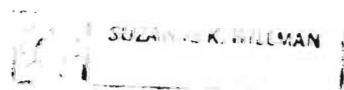
Date June 20, 1990

Carolyn J. Seeley  
Signature of Complainant

Subscribed and sworn to before me this 24th day of June, 1990.

Suzanne K. Wilman  
Notary Public in and for the

State of Iowa



# ERTL

## FOR CONGRESS

June 1, 1990

Mr. George Volanakis, President  
The Ertl Company, Inc.  
Dyersville, IA 52040

Dear Mr. Volanakis:

It appears to us that your Chief Executive Officer, Fred F. Ertl, Jr., is bringing The Ertl Company, Inc. into the campaign for the 2nd District Congressman both through his own personal correspondence with the newspapers and the ensuing articles, and through his attorney's letters and press releases. These releases speak for not just Fred F. Ertl, Jr., but for The Ertl Company, Inc. as well. I am enclosing copies of the Fred F. Ertl, Jr. letter and the Klinger, Robinson, McCuskey & Ford law firm press release and other correspondence, each reflecting that they are speaking for both The Ertl Company, Inc., and Fred F. Ertl, Jr.

You will find in checking all of our campaign material that at no time do we make any representation that Joe Ertl is with The Ertl Company, Inc., and most certainly no representation that The Ertl Company, Inc. is supporting him. Fred F. Ertl, Jr. is simply setting up a straw man to knock down.

I am sending you the only two pieces of campaign material of which I am aware that even mention your company. You will see from that material it is very clear that Joe left your company 20 years ago in 1970.

It seems to us that Fred F. Ertl, Jr. who, from his letter of May 29, 1990 represents himself to be a Moldenhauer backer, is using The Ertl Company, Inc.'s name to further his own personal political objectives.

We feel that to be inappropriate and we hope you will also.

Very truly yours,

Carolyn J. Seeley  
Campaign Manager  
Joe Ertl Campaign

Enc.

cc: David H. Clarke, Director & President  
Hanson Industries  
99 Wood Avenue South  
Iselin, New Jersey 08830

Fred Ertl, Jr.  
217 Country Club Drive  
Thunder Hills Estates  
Peosta, Iowa 52068

May 29, 1990

LETTER TO THE EDITOR:

I want everyone to know that brother Joseph Ertl, who is a candidate against Wayne Moldenhauer for the Republican nomination for Second District Congressman from the State of Iowa, is not now, nor has he been, affiliated with The Ertl Company, Inc. of Dyersville, Iowa since prior to 1970.

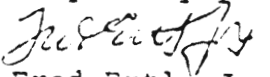
Neither the Ertl Company nor I endorse or support Joseph Ertl's candidacy. While Joe operates a small family toy company, Scale Models Inc., he is not in anyway connected with me or The Ertl Company, Inc. I have been approached by many who think I am the candidate or that the Ertl Company is involved but that is not true at all and I want to clear up all such misconceptions.

I personally am a Moldenhauer backer and have contributed \$1000 to his primary campaign. Never before have I contributed this much to any campaign. But, I feel strongly that Moldenhauer must win this primary election if republicans want a chance to retain Tom Tauke's seat in Congress. Wayne has a great deal of varied public service experience and has been involved with large sums of money through his public service involving the city of Dubuque as its mayor and on the Dubuque Community School board. His involvement as mayor with Dubuque business and industry makes him uniquely qualified.

Wayne also is a lifelong republican [as I am], who has worked for republican causes and the election of President Bush, Representative Tauke, Governor Branstad, Senator Grassley and others [as I have]. Joe Ertl was a democrat until recently and to my knowledge has not openly supported republican causes in the past.

Fellow republicans--if you want a republican in Washington---not a recent turncoat democrat who may revert to democrat stances, I urge you to financially back and vote for Wayne Moldenhauer.

Very truly yours,

  
Fred Ertl, Jr.

Home PH: 583-9568  
Office PH: 875-2000

dm



KLINGER, ROBINSON, McCUSKEY & FORD

ATTORNEYS AT LAW

401 OLD MARION ROAD N.E.

CEDAR RAPIDS, IOWA 52402

ROBERT E. FORD  
PHILLIP D. KLINGER  
GARY L. ROBINSON  
THOMAS G. McCUSKEY  
LORRAINE K. SNEAD  
KIMBERLY A. TEN EICK  
JEFFREY P. TAYLOR

TELEPHONE  
(319) 395-7400  
CABLE: TESHUB  
FACSIMILE  
(319) 395-0041

\*ALSO ADMITTED IN ARIZONA

May 25, 1990

Gentlemen:

I enclose a press release issued on behalf of our client, The Ertl Company, Inc. of Dyersville, Iowa. This press release is for immediate use.

If you have any questions regarding same, please contact the undersigned.

Thank you for your consideration.

Phillip D. Klinger

PDK:ta

200403121

KLINGER, ROBINSON, MCCUSKEY & FORD  
ATTORNEYS AT LAW  
401 OLD MARION ROAD N.E.  
CEDAR RAPIDS, IOWA 52402

ROBERT E. FORD  
PHILLIP D. KLINGER  
GARY L. ROBINSON  
THOMAS G. MCCUSKEY\*  
LORRAINE K. SNEAD  
KIMBERLY A. TEN EICK  
JEFFREY P. TAYLOR

TELEPHONE  
(319) 395-7400  
CABLE: TESHUB  
FACSIMILE  
(319) 395-9004

May 25, 1990

\*ALSO ADMITTED IN ARIZONA

Press Release

Because of misunderstanding on part of the public linking Joseph Ertl a candidate for Iowa's Second District Congressional Seat, with The Ertl Company, Inc., of Dyersville, The Ertl Company deems it necessary to clarify matters as follows:

1. Joseph Ertl is not now, nor has he been, affiliated with The Ertl Company, Inc., of Dyersville, Iowa, since prior to 1970.
2. Neither The Ertl Company, Inc., nor its Chief Executive Officer, Fred F. Ertl, Jr., have endorsed, nor does either of them intend to endorse or support, Joseph Ertl's candidacy in the future.
3. Any inferences made by the candidate, or drawn by the public, or the press, contrary to the items set forth above, are totally without foundation.
4. Contact Person: Phillip D. Klinger  
(319) 366-1610

20040303122

KLINGER, ROBINSON, MCCUSKEY & FORD

ATTORNEYS AT LAW

401 OLD MARION ROAD NE

CEDAR RAPIDS, IOWA 52402

ROBERT E. FORD  
PHILIP D. KLINGER  
GARY L. ROBINSON  
THOMAS E. MCCUSKEY  
LOUISINE E. SNEAD  
KIMBERLY A. TENER  
JUDITH E. CLAYTON

TELEPHONE:  
(319) 265-7600  
CABLE: TESLUM  
FACSIMILE:  
(319) 265-0001

May 25, 1990

\*ALSO ADMITTED IN ARIZONA

RE: Candidacy of Joseph Ertl for Second District  
Congressman from the State of Iowa

Ladies & Gentlemen:

Our client, The Ertl Company, Inc. of Dyersville, Iowa, has made the request that we contact each of you and notify you of certain aspects regarding the candidacy of Joseph Ertl for the Republican nomination for Second District Congressman from the State of Iowa.

Joseph Ertl is not now, nor has he been, affiliated with The Ertl Company, Inc. of Dyersville, Iowa, since prior to 1970.

Neither The Ertl Company, Inc. nor its chief executive officer, Fred E. Ertl, Jr., have endorsed nor do either of them intend to endorse or support Joseph Ertl's candidacy in the future.

We would anticipate, on behalf of our clients, that you will refrain from making statements or giving inferences in the future that the candidate is affiliated with The Ertl Company, Inc. of Dyersville, Iowa. (These inferences are totally without foundation.)

If you have any questions relative to this, please feel free to contact me at your convenience.

Sincerely yours,

KLINGER, ROBINSON, MCCUSKEY  
& FORD

Philip D. Klinger

PDK:ta

# ERTL

## FOR CONGRESS

Joseph Ertl was born in 1935 in Dubuque, the second largest town in Iowa's Second Congressional District. At the age of ten he began working in his father's factory, Ertl Toys. It is through his association with the Ertl Toy Company and his own business that the Ertl name has become familiar across Eastern Iowa.

Joe lived and worked in Dubuque until 1960, attending Loras Academy, Loras College, and working as an engineer in his father's company. In 1970 Joe left the family business to found and operate Dyersville Die Cast. He followed that up in 1977 by returning to the toy business and founding Scale Models. Today Joe has three plants across the Second District (Cascade, Dyersville, and Farley).

In 1969 Joe bought his first farm and began raising corn and soybeans. Since then Joe and his son, Don, have been active in the local agricultural community.

For the last fifteen years Joe has served on the Western Dubuque School Board, geographically the largest district in Iowa. For the past six years he has served on the Iowa Association of School Boards' Board of Directors.

In his time away from the campaign trail Joe devotes his attention to his wife of thirty-one years, Helen, their three children and two grandchildren.

Joe's charitable activities have been numerous. Joe helped to establish a \$1 million endowment fund for Beckman High School. He founded and donated land to Progress Inc., a sheltered workshop for the mentally and physically handicapped. Joe has made extensive donations of his own land to the city of Dyersville for use as city parks. And another thirty acres of land was donated to a local church which is now the site for low income housing. He also is known for his donations of toys to needy children at Christmas. Last year 2,000-3,000 toys were distributed through-out the area.

Joe is an active supporter and contributor to Loras College and St. Francis Xavier's Basillaca, and is a sustaining member of the Boy Scouts of America and the Girl Scouts. He is a member of the Farm Bureau, Lions Club, Knights of Columbus, National Rifle Association, Aircraft Owners and Pilots Association, and the Society of Die Cast Engineers.

Joe's hobbies include flying, boating, hunting, fishing, tennis, and he has recently taken up snow skiing.

## Business

# Ertl: A model businessman

Slow and easy brings success

By Sue Blocker  
of the Telegraph-Herald

DYERSVILLE, Iowa — It was a sweet deal.

A manufacturing company wanted Joe Ertl to expand his Scale Models toy operation. The company would pay for the expansion and provide enough new business to make the growth necessary.

"What could go wrong?" the company said.

But Ertl wasn't buying. His business was fine the way it was, thank you.

The manufacturer pulled its business with Ertl and offered the deal to another toy company. About three years later, both companies were in financial trouble.

Ertl's caution with that deal reflects his approach to life. Steady as she goes, don't try to do too much too fast.

"Don't risk everything you have on something you don't need," is one of his axioms.

Ertl isn't entirely averse to risks, though. There has to be good reason to take a chance.

Take his decision to start a die-casting operation, for example.

He was 33 and vice president at a very successful, national toy company when he decided to start out on his own.

The toy manufacturer was Ertl Co., founded by Joe Ertl's father, Fred Sr. The Ertls had operated the company as a family business from 1945 to 1987. That year, they sold to Victor Comptometer Corp., a firm with \$200 million in sales.

Three years later, Joe left the company.

"I didn't like the bureaucracy of a big corporation," he said. He decided he must "either do something new or stay here (at Ertl Co.) forever."

He started Dyersville Die Casting in 1970. The early years were not easy, but he never regretted the decision.

"You didn't have a whole lot, period," he said. "Everybody pitched in and helped. We could see it was a good thing."

The move turned out to be "the best thing I've done."

Ertl got back into the toy business in 1977 when White Farm Equipment approached him about making model tractors for the company. Scale Models was born and has been growing — gradually — ever since.

From that single contract, Scale Models has increased its business so that it now handles about 100

### The Ertl file

**Born:** Oct. 12, 1935; Dubuque  
**Education:** graduated Loras Academy, 1953. Attended Loras College.

**Family:** wife, Helen; children Jane McClean, Julie Jensen and son, Don.

**Activities:** Board member, Western Dubuque Community School Board; board member, Progressive, Inc., a sheltered workshop; past member of the Iowa Association of School Boards.

different projects, from peddle tractors to model car kits to novelty items like belt buckles and sculptures.

He now has 80 employees at Dyersville Die Casting and at Scale Models operations in Dyersville and Cascade.

"I don't like to go too fast at any one point," he said.

Toy-making seems to be in the Ertl family bloodstream.

Ertl was 10 when his father started the business in the basement of the family home in Dubuque. On strike from a Dubuque foundry, Fred Sr. started making toys and selling them to implement dealers. The dealers gave the replicas away as promotional items.

The five Ertl sons and their sister were put to work.

Joe tapped holes in the castings and put decals on the finished product.

After graduating from Loras Academy, he started at Loras College's engineering program, which called for two years of work at Loras and another three at Iowa State University at Ames.

At that time, my dad's business was going pretty good," Ertl said. "He needed someone to do design and engineering."

So the middle Ertl boy left college to join the business and design toys.

The toy business, Ertl said, has provided him with good friends and good fun.

"You're creating something, and you think 'Some kid will enjoy this,'" he said.

Ertl said he wants all his employees to enjoy their work. He said he is a fairly lenient manager.

I know what it's like to be under the gun," he said. "I like to see my people work under mini-

mal supervision. But sometimes you have to get tough, too."

His daughter, Jane McClean, corporate secretary and office manager, said Ertl is "extremely fair. He doesn't judge anybody before he works with them."

Ertl challenges his three children, who now work for the company. In addition to Jane, his daughter Julie Jensen is the bookkeeper and his son Don operates the die-casting business.

He always asks our opinion. And we always have one," Jane said. "He makes us become better. We are told to think."

Long-time friend Bridget Kluesner of Dubuque said Ertl "has given a lot of people an opportunity to grow in their positions. They have a little more responsibility each year."

Ertl's interest in people takes him outside his company.

His concerns are very broad. He is willing to put himself out to really help," said the Rev. Stanley Hayek, pastor at St. Francis Xavier in Dyersville.

An example Hayek used was Scale Models' Christmas project. For the past two years, Ertl has donated brand new farm toys to needy children. His workers have donated their time to make the toys.

Kluesner remembered a more personal incident.

When her first husband died, Kluesner was left with three young children. Ertl "saw to it for the first few years that my kids had Christmas. I don't think there was a week that went by that he or his wife didn't stop off or call."

Ertl also has dedicated his time to the Western Dubuque Community School Board — serving on the board since 1974.

School Superintendent Wayne Drexler said Ertl is a dedicated board member. "He has a tremendous business mind. He has the ability to grasp budget figures and contracts very easily."

As a board member, Ertl said he can be "bullet proof" — he can make decisions he thinks are best without having to worry about customers or suppliers.

He says what he believes. Drexler said "Everybody doesn't always agree with Joe, but he's a leader."

Aside from his work on the school board and at Scale Models, Ertl divides his leisure time among a variety of activities. Golf, tennis, bowling and fishing are some of his interests. And his children finally got him out on the ski slopes this winter.

He particularly likes boating and said it has been the Mississippi



River that has kept him in the area.

Ertl also owns a 240-acre farm with his son, Don. I go down there and help. It makes you realize where it all begins."

If it weren't for the farmers, there wouldn't be a Scale Models, he added.

Another of Ertl's interests is right there at Scale Models. It is a miniature toy museum he has assembled during his years in the business from friends' donations.

Amongst the many glass display cases is one dedicated to toys his father made. There also is one that features the first tractor Ertl designed in 1953.

Out of place among the toys is a sculpture of David slaying Goliath, which the company produced as a premium item for the PTT Club.

The piece is not symbolic of Ertl's plans for Scale Models, though. The company is not looking to slay any Goliaths of the toy manufacturing world.

I have no desires to become a huge corporation. Nor do I have any ideas to sell," Ertl said.

He only wants to establish the company in a stronger position in the toy market.

His business, after all, is more than just making something to make a buck.

**ERTL**  
FOR CONGRESS

4652 First Avenue NE  
P.O. Box 2841  
Cedar Rapids, Iowa 52406-2841  
319/378-1010

I would appreciate your vote on June 5, 1990.

Paid for by Ertl for Congress

*Joseph L. Ertl*





FEDERAL ELECTION COMMISSION  
WASHINGTON D.C. 20463

June 29, 1990

Carolyn Seeley, Campaign Manager  
Joe Ertl Campaign  
640 N. Cedar  
Monticello, Iowa 52310

RE: MUR 3080

Dear Ms. Seeley:

This letter acknowledges receipt on June 25, 1990, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"), by Klinger, Robinson, McCuskey & Ford, Fred F. Ertl, Jr., The Ertl Company, Inc., and Phillip Klinger. The respondents will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3080. Please refer to this number in all future correspondence. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

If you have any questions, please contact Betha Dixon, Docket Clerk, at (202) 376-3110.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosure  
Procedures



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 29, 1990

Klinger, Robinson, McCuskey  
& Ford  
401 Old Marion Road, N.E.  
Cedar Rapids, Iowa 52402

RE: MUR 3080

Dear Gentlemen:

The Federal Election Commission received a complaint which alleges that Klinger, Robinson, McCuskey and Ford may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3080. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 matter to be made public. 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.

100-40303127

If you have any questions, please contact Jeff Long, the staff member assigned to this matter at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

20040303128





FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 29, 1990

Fred F. Ertl, Jr.  
217 Country Club Drive  
Thunder Hills Estates  
Peosta, Iowa 52068

RE: MUR 3080

Dear Mr. Ertl:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3080. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and 5 U.S.C. § 552(a)(7)(D) unless you notify the Commission in writing that you wish the matter to be made public. 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.

If you have any questions, please contact Jeff Long, the staff member assigned to this matter at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

40003130



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 29, 1990

George Volanakis, President  
The Ertl Company, Inc.  
Dyersville, Iowa 52040

RE: MUR 3080

Dear Mr. Volanakis:

The Federal Election Commission received a complaint which alleges that The Ertl Company, Inc. may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3080. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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If you have any questions, please contact Jeff Long, the staff member assigned to this matter at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

40033132



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

June 29, 1990

Phillip Klinger  
Klinger, Robinson, McCuskey & Ford  
401 Old Marion Road, N.E.  
Cedar Rapids, Iowa 52402

RE: MUR 3080

Dear Mr. Klinger:

The Federal Election Commission received a complaint which alleges that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3080. Please refer to this number in all future correspondence.

Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under oath. Your response, which should be addressed to the General Counsel's Office, must be submitted within 15 days of receipt of this letter. If no response is received within 15 days, the Commission may take further action based on the available information.

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 matter to be made public. 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.

2040303133

If you have any questions, please contact Jeff Long, the staff member assigned to this matter at (202) 376-5690. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Lawrence M. Noble  
General Counsel

BY:

  
Lois G. Lerner  
Associate General Counsel

Enclosures

1. Complaint
2. Procedures
3. Designation of Counsel Statement

20040000154

KLINGER, ROBINSON, MCCUSKEY & FORD

ATTORNEYS AT LAW

401 OLD MARION ROAD N.E.

CEDAR RAPIDS, IOWA 52402

90 JUL 23 AM 11:54

ROBERT E. FORD  
PHILLIP D. KLINGER  
GARY L. ROBINSON  
THOMAS C. MCCUSKEY  
LORRAINE K. SNEAD  
KIMBERLY A. TENERICK  
JEFFREY P. TAYLOR

TELEPHONE  
(319) 975-7400  
CABLE TELETYPE  
FACSIMILE  
(319) 975-9041

\*ALSO ADMITTED IN ARIZONA

July 18, 1990

Federal Election Commission  
Washington, D.C. 20463

ATTN: Lois G. Lerner, Associate General Counsel

RE: MUR 3080 (The Ertl Company and Fred F.  
Ertl, Jr., an Individual)

Dear Ms. Lerner:

In regard to the above captioned complaint, we are herein filing our response on behalf of the Ertl Company, Fred F. Ertl, Jr., Phillip D. Klinger and Klinger, Robinson, McCuskey & Ford. You will enclosed please find Designation of Counsel which you had forwarded to our clients executed by Fred F. Ertl, Jr. and by George Volanakis, President of the Ertl Company of Dyersville, Iowa.

Understanding this complaint is presently a "matter under review", we think it best at this time to give you a preliminary background of the situation. The Ertl Company is a major player in the toy and die-cast replica industry in the United States. Its principal place of business in the United States is in Dyersville, Iowa. It was founded a number of years ago by Fred F. Ertl, Sr. In the late 1960's, or early 1970's, the family sold the business to a corporation known as Victor Comptometer. Fred F. Ertl, Jr. stayed with the company at that time and has continued to be associated with the Ertl Company to the present day as Chief Executive Officer. At this time, the Ertl Company is a division of Hanson Ltd.

Joseph Ertl, a candidate in the primary for the Republican nomination for Second District Congressman for the State of Iowa is a brother of Fred Ertl, Jr. Joseph Ertl was affiliated with the Ertl Company until prior to 1970. Subsequent to leaving the Ertl Company, Joseph Ertl established a competitor company known as Scale Models, Inc. with offices in Dyersville, Iowa. The Ertl Company is a much larger facility than Scale Models, Inc. As

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Federal Election Commission  
Page Two  
July 18, 1990

stated, the Ertl Company is a major player in the toy industry in the United States and has manufacturing facilities outside of the continental United States.

From the inception of Mr. Joseph Ertl's campaign for the nomination he allowed the press and the public to draw the false impression that he was affiliated with the Ertl Company. Unless specifically asked or pressed on this issue, Mr. Ertl did not make it popularly known that he was not the "Ertl" with the Ertl Company. Attached hereto and marked Exhibit A is a copy of a newspaper article from the Dubuque, Iowa Telegraph Herald which appeared on the day Mr. Ertl announced his candidacy for Second District Congressman. Please note that in the second column the Linn County Republican Party Chairman, Chris Contard, is quoted as saying "He has very good name identification". "You say 'Ertl Toys' and it's him".

Being Chairman of the Linn County Republican Party, Mr. Contard is the chairman for the Republican party in the largest county (population wise) in the Second District. He was not aware of the fact that Mr. Ertl was not affiliated with the company. Marked Exhibit B and attached hereto is a copy of a newspaper article that appeared in the Des Moines Register approximately two and one-half to three weeks prior to the conclusion of the election campaign primary. You will note that in the fourth column, third paragraph the Des Moines Register is still stating "Through his association with the Ertl Toy Co., Joe Ertl, 54, may enjoy the highest name recognition of the three candidates."

Further enclosed, marked Exhibits C and D are two pieces of campaign literature distributed by Joseph Ertl during his campaign. Each of these makes strong reference to the fact that he is a toy manufacturer but does not mention the name of the company he is affiliated with nor make the distinction that he is not affiliated with the prominently known Ertl Company.

You should be mindful of the fact that over the years there have been occasions when the Ertl Company has had to take certain legal measures in order to keep Joseph Ertl from infringing on license agreements it has with companies regarding manufacturing of products.

Be that as it may, the sole purpose of the company issuing its press release and sending the letter to the County Chairpersons



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Page Three  
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in the Second District was to clarify an issue that Mr. Ertl had failed to clarify for himself. That is, he was not with the Ertl Company, that the Ertl Company was not backing him in any fashion nor was the Chief Executive Officer of the Ertl Company backing him in any fashion. We feel these notifications are not a violation of any Federal election laws due to the fact that to the contrary it was Mr. Ertl who was attempting to promote a false impression among the voters that he was in fact with the Ertl Company.

On behalf of Fred Ertl, Jr., any communications that he wrote to the press as letters to the editor, were done so in an individual capacity. His rights are protected under the First Amendment to the Constitution in that he has a right to express his opinions as any other individual does.

Relative to our firm and myself individually, it is our opinion that we were not attempting to involve ourselves in an election but were representing a client who had rights. False information relative to a client was being allowed to be disseminated by the candidate. The candidate did not take any overt action on his part to clear the "air", so to speak, relative to his place of employment and his absence of association with the Ertl Company. The press release was issued to the media in the Second District. The letter went to the Republican Chairman in each of the counties in the Second District and to the State Republican officials.

Interestingly, you should note that after forwarding the letter to the press we received a call from a reporter from the Iowa Public Broadcasting Network. This reporter informed me that she had the previous evening observed a news item on Joseph Ertl. In this news item he was seated in a toy factory and she wanted to know exactly why in the press release we were saying he was not affiliated with the Ertl Company when in fact he was sitting in this toy factory. I explained to this reporter, who had been covering the campaign for a period of time, the situation, which, she had not been aware of.

For these reasons, we feel that all actions taken by our clients and ourselves were not in violation of the Federal election laws

**STATEMENT OF DESIGNATION OF COUNSEL**

MUR 3080

NAME OF COUNSEL: Phillip D. Klinger

ADDRESS: Klinger, Robinson, McCuskey & Ford  
401 Old Marion Road NE  
Cedar Rapids, IA 52402

TELEPHONE: (319) 395-7400  
(319) 395-9041-FAX

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.

9/90  
Date

[Signature]  
Signature  
Fred F. Ertl, Jr., an Individual

RESPONDENT'S NAME: Fred F. Ertl, Jr.

ADDRESS: 217 Country Club Drive  
Peosta, IA 52068

HOME PHONE: 319-583-8412

BUSINESS PHONE: (319) 875-2000

90040303138

**STATEMENT OF DESIGNATION OF COUNSEL**

**MUR** 3080

**NAME OF COUNSEL:** Phillip D. Klinger

**ADDRESS:** Klinger, Robinson, McCuskey & Ford  
401 Old Marion Road, NE  
Cedar Rapids, IA 52402

**TELEPHONE:** (319) 395-7400  
(319) 395-9041-FAX

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.

7/7/90  
Date

George B. Volanakis  
Signature  
George B. Volanakis, President

**RESPONDENT'S NAME:** The Ertl Company, Inc.

**ADDRESS:** Dyersville, IA 52040

**HOME PHONE:**

**BUSINESS PHONE:** (319) 875-2000  
(319) 875-8263-FAX

400003139

# Ertl enters GOP race for Congress

By Bruce Japsen  
of the Telegraph Herald

DYERSVILLE, Iowa — Dyersville businessman Joseph Ertl said today he is a candidate for the 1990 Republican nomination for Iowa's 2nd District congressional seat.

The 53-year-old Ertl, whose father Fred Ertl founded The Ertl Toy Co. of Dyersville, told Linn County Republican Central Committee



Ertl

Wednesday night he would enter the race. He said he has views similar to incumbent Tom Tauke and is expected to run for the Senate against Democrat Markin.

"My views are pretty close to Tom Tauke's, and I've also owned a farm since 1968," Ertl said. "I believe in the balanced budget so we're not mortgaging our futures. We need to help the family farmer. It's very critical for the farmer to be able to feed, or our small towns are going to be in big trouble."

Ertl, who was born in Dubuque, graduated from Scale Models, which produces scale-model tractors. He also works at Dyersville Die Casting in Cascade, Dyersville.

Ertl graduated from the University of Iowa and attended law school. He has a keen interest in education and has been involved in various educational projects.

served on the Western Dubuque County Community School Board for 15 years. He was also on the Iowa Association of School Boards for six years.

"One of the things that I look forward to is that government would be a tool in helping people succeed in their dreams and not be a road block to prevent them from their dreams," Ertl said.

Linn County Republican Party chairman Chris Contard said Ertl's announcement is a pleasant surprise.

"He has very good name identification," said Contard. "You say 'Ertl toys' and it's him. He has a number of things going for him including his business record, which is just outstanding."

Contard said Ertl brings a new dimension to the 2nd District race because of his business background, which will probably make him the better fundraiser among all the candidates running.

Dr. Wayne Moldenhauer, a Dubuque dentist, has announced his candidacy for the GOP nomination. Delaware County Attorney Jim Nussle filed candidacy papers, but has delayed announcement of his candidacy until Tauke announces whether he will run for the Senate.

At least four Democrats expressed interest in the race: Eric Tabor of Baldwin, who ran for Tauke in 1988 and 1986; former Dubuque Mayor Tom Tully; former Jackson County Supervisor Rick Dickinson of Sabula; and former state senator Steve Boyer of rural Marion, who announced his candidacy Tuesday.

Johnson, reinstated as a

900403140

# Candidates rush to fill void left by Tauke

## Republicans field 3 for primary

By JONATHAN ROOS

**STRAWBERRY POINT, IA.** — On a recent evening at the Franklin Hotel, a group of Clayton County Republicans was trying to sort out a political contest as jumbled as the spaghetti on their plates.

A friendly, after-dinner interrogation of three GOP congressional candidates was about to end when someone popped the question: "Why should we people sitting here tonight vote for you, or why should we tell our friends to vote for you?"

Joe Ertl, Wayne Moldenhauer and Jim Nussle — all hoping to pick up where Republican Tom Tauke left off as the representative in the 2nd Congressional District — had fielded questions about abortion, the environment and agriculture.

But their similar answers begged the question: Why was one more deserving than the others of voters' support in the June 8 primary?

### Heavily Democratic

Moldenhauer, who has served on both the Dubuque City Council and local school board,

emphasized his vote-getting ability in that heavily Democratic city.

Ertl, a Dyersville businessman whose name is widely recognized by people because of the Ertl family's toy-manufacturing business, said that was one reason he would be the strongest GOP candidate.

Nussle, 29, the Delaware County attorney, reminds supporters of Tauke when he first was elected to Congress in 1978, and he insisted he was the one most capable of going "loose-toe" with the Democratic contender in November — either Steve Severn of Marion or Eric Tabor of Baldwin.

Nussle gained a convert in Theresa Breitbach, a Strawberry Point nurse. "We need someone who will follow in Tom Tauke's footsteps. He's got that directness and that leadership quality," she said later. But it was clear from the Ertl and Moldenhauer campaign stickers that they, too, have attracted a following.

### Candidate for Congress

#### Wayne Moldenhauer Republican

**Background:** Born July 29, 1931 in Charles City; now lives in Dubuque.

**Education:** 1949, graduated from Charles City High School; 1955, dental degree from the University of Iowa.

**Career:** Since 1958, worked as a dentist; 1965-67, served in the Navy; since 1967, member of the Dubuque School Board; 1969-1973, member of the Dubuque City Council; 1972, Dubuque mayor.

**Family:** Wife, Karin; two sons, Robert and James; three daughters, Kristen, Gretchen and Susan.

lowing.

As The Question suggests, it soon will be time to choose one. But there appears to be no clear favorite.

Republicans did not have to make such difficult choices during the 12 years that Tauke represented the 2nd District, which takes in a large chunk of eastern Iowa and is anchored by the cities of Cedar Rapids, Dubuque and Clinton.

But now that he has decided to battle Tom Harkin for Harkin's U.S. Senate seat, the GOP must find someone else who can win in a district where registered Democrats outnumber Republicans by about 27,000 voters.

The fact that three candidates came forward reflects the belief of the party faithful that Tauke's long tenure was not due solely to his personal popularity. But in trying to fill his shoes, it also is tempting to try to retrace his footsteps.

### Long-time Resident

Moldenhauer, 58, a dentist who has been very active in Dubuque's civic life, says one of his selling points is that he, like Tauke, is a long-time resident of the city and is capable of making major inroads in the Democratic stronghold. More than half of Dubuque County's registered voters are Democrats, and only 18 percent are Republicans.

Moldenhauer's election to the City Council and school board by top-sided margins "shows what I've done in terms of gaining votes in Dubuque County," he said.

Nussle, an energetic campaigner and polished speaker, nurtures the image of a young Tom Tauke and is not shy about invoking his name. "Congressman Tom Tauke had a message, Jim Nussle has a message, and we're going to carry the day because we have a message that empowers people," Nussle told Clayton County Republicans.

Nussle, who has built a base of support in Cedar Rapids, is only two years older than Tauke was when Tauke first was elected to Congress by beating Michael Blouin. Nussle served on Tauke's staff in 1982, and a former Tauke assistant in charge of Nussle's campaign.

### Stress Experience

Through his association with Ertl Toy Co., Joe Ertl, 54, may enjoy the highest name recognition of the three candidates. Like Moldenhauer, he is from Dubuque County and is a former school board member. In contrast to Nussle's youthfulness, both he and Moldenhauer stress their experience.

Ertl also makes a pitch to rural voters, citing the farm he owns with his son, Don, and talking at length about farm policies. He believes that if corn-based ethanol is more heavily promoted as a fuel, "the 2nd District can become the new oil fields of the 21st century."

Ertl was the last of the three Republicans to enter the race, but he was the first to launch television commercials.

Ertl has invested more than \$70,000 in personal loans and contributions in his campaign, giving him the largest campaign treasury. His opponents counter that while he is tapping his family's wealth, many more people have contributed to their campaigns.

### Contributions

Records of contributions received through mid-April show that Moldenhauer has taken in about \$38,000; Nussle, nearly \$33,000; and Ertl, more than \$24,000.

Like Tauke, the three Republican candidates for his congressional seat are opposed to abortion.

Moldenhauer and Nussle said it was unlikely, however, that a woman's right to abortion would be rescinded. Said Nussle, "What we have to worry about in this particular election is we don't want to sound like an extremist to the voters. There are very many people in the middle who just haven't decided yet."

The abortion issue could have a major bearing on the outcome of the election in November. If Tabor, a pre-choice candidate, defeats Severn in the Democratic primary, the stage may be set for a November showdown with one of the anti-abortion Republican candidates.

With the Roman Catholic Church opposed to abortion, the issue is an especially sensitive one in largely Catholic Dubuque.

## ABC's

### O' Good Government

Agriculture based on free enterprise  
Balanced budget  
Child care tax credits

Drug Enforcement with harsher penalties  
Environmental protection for the future  
Family Bill of Rights

Good land stewardship

Health care - affordable & available

Industrial development for Eastern Iowa

Jack and Jill

Keep it simple

Less government

Moral & ethical government

Neighbors helping neighbors

Only what's necessary

Product liability reform

Quality lawabiding, not pro-politicians

Right to Life

Sound Social Security system

Tax forms simplified

USA First

Values & bases in education

Workfare not welfare

Vote for Joe Ertl

Your concern, my priority

Zero tax increases

*When he's there, you're there!*

## Service...

If you don't already know Joe Ertl, you know someone like him in your town. That person is someone who gets things done. I've found the money to keep a school open - or getting neighbors together to help a family in trouble - or giving a business owner an underprivileged kid.

Joe Ertl is that kind of person. He's lived in Dubuque County all his life, and people have always turned to him when something needed doing.

Now at 54, Joe is running for Congress because he said to himself:

## Experience...

Joe Ertl has been in it a long time, making and metal die casting business for 35 years. Today, the company has factories in Dyersville, Cascade, and Earley. Joe knows what it takes to create jobs, how to compete with foreign companies, and how to balance the checkbook. He'll bring that experience in the Congress.

Joe understands agriculture. He's farmed for 30 years, so he's seen the good times and the bad. Today his son, Don, lives on and operates the farm for the Ertl family. Joe's knowledge of agriculture will help Northeast Iowa.

Joe has been a member of the Iowean Democratic Club of IA for 15 years, and on the local level, a member of the Iowa Democratic Board of Directors for the past 6 years. He knows that education is one of the most important issues we face in America and he'll be a leader in Congress.

## Values...

Joe's father was an immigrant, so was Helen's grandfather. Joe and Helen raised three children and now have two grandsons. Faith and sacrifice aren't just words to the Ertl's - they're a way of life. Joe and Helen hold values that people here in Iowa understand!

Joe's a conservative, and an optimist. He'll be a hard-working, conscientious Congressman for Northeast Iowa.



Joe Ertl and son Don Ertl



The Ertl family, 1987-1988  
Joe Ertl, Don Ertl, and family



Joe Ertl, 1987-1988



Joe Ertl's car, 1987-1988  
Joe Ertl, Don Ertl, and family

Joe Ertl's car, 1987-1988  
Joe Ertl, Don Ertl, and family

*Now Joe needs your help!*

Please order this card to help Joe Ertl

NO POSTAGE  
NECESSARY  
IF MAILED  
IN THE  
UNITED STATES



FIRST-CLASS MAIL PERMIT NO. 34K CEDAR RAPIDS, IA

BUSINESS REPLY MAIL

POSTAGE WILL BE PAID BY ADDRESSEE

ERTL FOR CONGRESS

P.O. Box 2841  
Cedar Rapids, IA 52406 9947

*Attention: Carolyn*

**ERTL**  
FOR CONGRESS



April 9, 1990

Dear Republican Friend,

I make toys for a living. In fact, you may have one of our metal tractors in your home - or you've given one to a kid for Christmas.

But, I'm not writing you today as a toymaker. I'm writing to you because I'm a candidate for Congress here in the Second Congressional District.

Like you, perhaps, I think life here in Iowa is good. Caring neighbors and a rebounding economy. I'm not running for Congress because I'm mad about anything and I don't plan to turn the federal government on its ear.

But, one thing does concern me.

There are not enough people in Congress today with real life experience who have a common-sense outlook. In the Second District, in 1990, we can help change that a little bit.

Briefly here are some issues of concern in the Second District.

AGRICULTURE - should return to a free market system. We must eliminate cargo preference laws and other roadblocks. We need to expand our markets and develop new uses for our products. We must have good soil stewardship and good environmental practices.

BUDGET DEFICIT - We cannot continue to mortgage our children's future. If this can only be accomplished by a constitutional amendment then it's best to proceed immediately. We must quit spending and improve efficiency. We cannot increase taxes for our families.

CHILD CARE - I agree whole-heartedly with Tom Tauke regarding child care. Tax credits should be put in place so parents can choose the type of child care they wish. I do not want government institutions for child care.

EDUCATION - We must teach more basics and values. Parents must get more involved with the education of their children, their most valuable assets.

EXHIBIT D

ENVIRONMENT - We must have good land stewardship to protect our wells and rivers, and we must control our air emissions.

Those are common sense policies... and Congress should support them. Now, what can you do to make sure that the government enacts policies like these?

Well, you don't get to choose the whole Congress. But, you can send one person to speak for you and to represent your views in Washington.

I want to be that person and I really need your help.

First, vote for me in the Republican primary on June 5th. It's easy to do, just go to the polling place and ask for the Republican ballot.

Second, get involved in the campaign. Send me the reply card from the enclosed brochure letting me know that you'll help.

And third, contribute to our effort. Many people are giving me checks for \$5 or \$10... some for \$50 or even \$100. You have to judge your ability to give and your interest in this Congressional race - but your participation makes a big difference.

There, those are the three steps to getting involved and helping choose your next Congressman.

Now, it's up to you.

Please, respond to my letter. Let me know that you care about this race and tell me that you'll help.

When I'm there, you're there.

Sincerely,



Joe Ertl

P.S. If you want to discuss things in person, drop by the campaign office at 4652 First Avenue, N.E. in Cedar Rapids, or call me there at 319-378-1010. I hope to hear from you.

Catch us on T.V.



KLINGER, ROBINSON, McCUSKEY & FORD

ATTORNEYS AT LAW

401 OLD MARION ROAD N.E.

CEDAR RAPIDS, IOWA 52402

RECEIVED  
FEDERAL ELECTION COMMISSION  
MAIL ROOM

90 SEP 20 AM 11:50

ROBERT E. FORD  
PHILLIP D. KLINGER  
GARY L. ROBINSON  
THOMAS G. McCUSKEY\*  
LORRAINE SNEAD INGELS  
KIMBERLY A. TEN EICK  
JEFFREY P. TAYLOR

TELEPHONE  
(319)395-7400  
CABLE: TESHUB  
FACSIMILE  
(319)395-9041

September 17, 1990

\*ALSO ADMITTED IN ARIZONA

Federal Election Commission  
Washington, D.C. 20463

ATTN: Lois G. Lerner, Associate General Counsel

RE: MUR 3080 (The Ertl Company and Fred F.  
Ertl, Jr., an Individual)

Dear Ms. Lerner:

You will recall on July 18, 1990 I forwarded to you a response to the complaint filed by Joseph Ertl against the Ertl Company, Fred F. Ertl, Jr., George Volanakis and our law firm.

You should be aware of the fact that Mr. Joseph Ertl's campaign manager, Carolyn J. Seeley, at the same time that she filed the complaint with the Federal Election Commission, filed a complaint with the State of Iowa Bar Association stating my communications, of which you are investigating, were unethical and constituted malpractice.

Enclosed please find a copy of a letter dated September 10, 1990 from Mr. Norman G. Bastemeyer to Ms. Carolyn J. Seeley regarding her complaint. I believe Mr. Bastemeyer's letter is self-explanatory.

Thank you for your consideration.

Sincerely,

KLINGER, ROBINSON, McCUSKEY  
& FORD

Phillip D. Klinger

PDK:llt  
Enclosure  
cc: Mr. Fred F. Ertl, Jr.

90 SEP 20 PM 3:54

FEDERAL ELECTION COMMISSION

THE  
IOWA STATE BAR ASSOCIATION



Norman G. Bastemeyer,  
Ethics Administrator  
Committee on Professional  
Ethics & Conduct  
1101 Fleming Building  
Des Moines, Iowa 50309-4098  
Telephone 515-243-3179  
Fax 515-243-2511

September 10, 1990

Ms. Carolyn J. Seeley  
640 N. Cedar  
Monticello, IA 52310

In re: Our File No. 8990-331  
Complainant: Carolyn J. Seeley  
Respondent: Phillip D. Klinger

Dear Ms. Seeley:

The above complaint filed by you came on for consideration by the Committee at its recent hearing meeting.

Following review of the complaint, the response, the Committee's investigation, and the file, it was the determination of the Committee that both the letter to the Republican County chairpersons and to the press were factually correct. That there was nothing improper in respondent stating his client's position on his firm's letterhead stationery. That there was no showing of improper conduct on the part of the respondent and the complaint was dismissed.

FOR THE COMMITTEE ON  
PROFESSIONAL ETHICS AND CONDUCT

NGB/vle  
cc: Phillip D. Klinger

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RECEIVED

90 SEP 10 AM 10:00

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

**SENSITIVE**

**FIRST GENERAL COUNSEL'S REPORT**

MUR 3080  
DATE COMPLAINT RECEIVED  
BY OGC: June 25, 1990  
DATE OF NOTIFICATION TO  
RESPONDENTS: June 29, 1990  
STAFF MEMBER: George F. Rishel  
Jeffrey D. Long

COMPLAINANT: Carolyn Seeley, Campaign Manager  
Ertl for Congress

RESPONDENTS: Phillip Klinger and Klinger,  
Robinson, McCuskey & Ford

Fred F. Ertl, Jr.

George Volanakis, President  
The Ertl Company, Inc.

RELEVANT STATUTE: 2 U.S.C. § 441b

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

**I. GENERATION OF MATTER**

This matter was initiated on June 25, 1990, by a complaint filed by Carolyn Seeley, campaign manager of Ertl for Congress and the Joe Ertl Campaign, against The Ertl Company, Inc. and George Volanakis, as president; Klinger, Robinson, McCuskey & Ford and Phillip Klinger; and Fred F. Ertl, Jr. ("Respondents") and alleged that the Respondents had violated the Federal Election Campaign Act of 1971, as amended ("the Act"), by sending

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out certain press releases and letters. Attachment 1.<sup>1</sup> On July 23, 1990, Phillip Klinger filed a response on behalf of all Respondents. Attachment 2.

## II. FACTUAL AND LEGAL ANALYSIS

Joe Ertl was a candidate for the Republican nomination for the U.S. Congress from the Second Congressional District of Iowa in the 1990 Primary Election held June 5, 1990. He lost the election with 36 per cent of the vote to Jim Nussle, who got 39 per cent of the vote.

Joe Ertl's father had founded what is now The Ertl Company, Inc., which has been a national toy manufacturer, headquartered in Dyersville, Iowa. Joe Ertl worked for the company until he left in 1970. He founded a new company called Dyersville Die Cast. In 1977 he went back into the toy business with his own company called Scale Models, which today has plants in Dyersville, Cascade, and Farley, Iowa. His brother Fred F. Ertl, Jr. stayed with The Ertl Company.

On May 25, 1990, the law firm of Klinger, Robinson, McCuskey & Ford, acting as counsel for The Ertl Company of Dyersville, sent a letter to media outlets in the Second Congressional District that included a press release that stated:

"Because of misunderstanding on part of the public linking Joseph Ertl, a candidate for Iowa's Second District Congressional Seat, with The Ertl Company, Inc., of Dyersville, The Ertl Company deems it necessary

---

1. The complaint consists in part of correspondence and a complaint to the Iowa State Bar Association regarding the role of the law firm, Klinger, Robinson, McCuskey & Ford, in the alleged activities. Questions concerning any alleged violations of the bar association's ethical rules are outside the jurisdiction of the Commission.

to clarify matters as follows:

1. Joseph Ertl is not now, nor has he been, affiliated with The Ertl Company, Inc., of Dyersville, Iowa, since prior to 1970.

2. Neither The Ertl Company, Inc., nor its Chief Executive Officer, Fred F. Ertl, Jr., have endorsed, nor does either of them intend to endorse or support, Joseph Ertl's candidacy in the future.

3. Any inference made by the candidate, or drawn by the public, or the press, contrary to the items set forth above, are totally without foundation.

4. Contact Person: Phillip D. Klinger (319) 366-1610."

See Attachment 1, page 5. At the same time Phillip Klinger also sent a letter to the county chairpersons in the Second District and state party officials that repeated in essence the statements in the press release and concluded: "We would anticipate, on behalf of our clients, that you will refrain from making statements or giving inferences in the future that the candidate is affiliated with The Ertl Company, Inc. of Dyersville, Iowa." See Attachment 1, page 6.

Fred F. Ertl, Jr., also wrote one or more "letters to the editor" in which he also disavowed any connection between the company and Joe Ertl. Fred Ertl is the chief executive officer of The Ertl Company and the brother of Joe Ertl. The letter also stated:

"...I have been approached by many who think I am the candidate or that the Ertl Company is involved but that is not true at all and I want to clear up all such misconceptions.

I personally am a Moldenhauer backer<sup>2</sup> and have contributed \$1000 to his primary campaign. Never before have I contributed this much to any campaign. But, I feel strongly that Moldenhauer must win the Primary election if republicans want a chance to retain Tom

---

2. Wayne Moldenhauer lost the primary with 25 per cent of the vote.

Tauke's seat in Congress. Wayne has a great deal of varied public service experience and has been involved with large sums of money through his public service involving the city of Dubuque as its mayor and on the Dubuque Community School board. His involvement as mayor with Dubuque business and industry makes him uniquely qualified.

Wayne also is a lifelong republican [as I am], who has worked for republican causes and the election of President Bush, Representative Tauke, Governor Branstad, Senator Grassley and others [as I have]. Joe Ertl was a democrat until recently and to my knowledge has not openly supported republican causes in the past.

Fellow republicans--if you want a republican in Washington--not a recent turncoat democrat who may revert to democrat stances, I urge you to financially back and vote for Wayne Moldenhauer."

The letter was written on Fred Ertl's personal stationery, dated May 29, 1990, and listed his home and office phone numbers. See Attachment 1, page 8.

On June 1, 1990, Carolyn Seeley, campaign manager for the Joe Ertl Campaign, sent a letter to George Volanakis, president of The Ertl Company, protesting the company's issuance of the press releases and the letters by Fred Ertl. She alleged that these activities were bringing The Ertl Company "into the campaign" for the seat. She noted: "You will find in checking all of our campaign material that at no time do we make any representation that Joe Ertl is with The Ertl Company, Inc., and most certainly no representation that The Ertl Company, Inc. is supporting him. Fred F. Ertl, Jr. is simply setting up a straw man to knock down." She then suggests that Fred Ertl himself is using The Ertl Company name as part of his efforts on behalf of Wayne Moldenhauer. She enclosed two pieces of campaign literature to support her claims. See Attachment 1, pages 12-13.

One item is a biographical statement for Joe Ertl. It begins with these statements:

"Joseph Ertl was born in 1935 in Dubuque, the second largest town in Iowa's Second Congressional District. At the age of ten he began working in his father's factory, Ertl Toys. It is through his association with the Ertl Toy Company and his own business that the Ertl name has become familiar across Eastern Iowa.

Joe lived and worked in Dubuque until 1960, attending Loras Academy, Loras College, and working as an engineer in his father's company. In 1970 Joe left the family business to found and operate Dyersville Die Cast. He followed that up in 1977 by returning to the toy business and founding Scale Models. Today Joe has three plants across the Second District (Cascade, Dyersville, and Farley)."

The second item is a reprint of an article that appeared in the Dubuque, Iowa, Telegraph-Herald on March 28, 1988.

Ms. Seeley subsequently filed the complaint in this matter that alleged "corporate intervention in a congressional campaign" with respect to the press release and letter by the law firm and the letter to the editor by Fred Ertl.

In the response Phillip Klinger filed on behalf of himself and the other Respondents, he states:

"From the inception of Mr. Joseph Ertl's campaign for the nomination he allowed the press and the public to draw the false impression that he was affiliated with the Ertl Company. Unless specifically asked or pressed on this issue, Mr. Ertl did not make it popularly known that he was not the 'Ertl' with the Ertl company."

He refers to an article in the Dubuque Telegraph-Herald on the day Joe Ertl announced his candidacy that quotes the Linn County Republican Chairman, Chris Contard, as stating: "He has very good name identification. You say 'Ertl toys' and it's him." Klinger also cites to an article in the Des Moines Register two

or three weeks prior to the primary election that states: "Ertl, a Dyersville businessman whose name is widely recognized by people because of the Ertl family's toy-manufacturing business, said that was one reason he would be the strongest GOP candidate." Counsel also cites to two other pieces of campaign literature distributed by the Joe Ertl Campaign in which Ertl identifies himself as a toy manufacturer without identifying the name of his firm, thus according to counsel perpetuating the misconception he is affiliated with The Ertl Company. See Attachment 2.

Counsel states:

"the sole purpose of the company issuing its press release and sending the letter to the County Chairpersons in the Second District was to clarify an issue that Mr. Ertl had failed to clarify for himself. That is, he was not with the Ertl Company, that the Ertl Company was not backing him in any fashion nor was the Chief Executive Officer of the Ertl Company backing him in any fashion."

On behalf of Fred Ertl, counsel states that "any communication that he wrote to the press as letters to the editor were done so in an individual capacity." Regarding the law firm and himself individually, counsel states:

"we were not attempting to involve ourselves in an election but were representing a client who had rights. False information relative to a client was being allowed to be disseminated by the candidate. The candidate did not take any overt action on his part to clear the "air", so to speak, relative to his place of employment and his absence of association with the Ertl Company. The press release was issued to the media in the Second District. The letter went to the Republican Chairman in each of the counties in the Second District and to the State Republican officials."

Counsel also recounts receiving a phone call from a reporter with

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the Iowa Public Broadcasting Network regarding the press release and a new items that had shown Joe Ertl sitting in a toy factory. According to counsel, the reporter wanted to know why the press release said Joe Ertl was not associated with The Ertl Company when the news items showed him sitting in his toy factory. Counsel presents this anecdote as further evidence of the confusion regarding Joe Ertl's relationship with The Ertl Company. See Attachment 2, pages 15-16.

**a. Corporate Contribution or Expenditure**

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The Federal Election Campaign Act of 1971, as amended ("the Act"), provides that no corporation whatever shall make any contribution or expenditure in connection with a Federal election and that no candidate or political committee shall knowingly accept such a contribution or expenditure. 2 U.S.C. § 441b. The Act defines contribution to include "any direct or indirect payment, distribution, loan, advance, deposit, gift of money, or any services, or anything of value." 2 U.S.C. § 441b(b)(2).

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The Commission has recognized, however, that a corporation may endorse a candidate for election to Federal office and make such endorsement known through a press release "so long as the expenditures related thereto are de minimis and the announcement is not made a pretext for general electioneering." Advisory Opinion 1984-23. The Commission has also stated that the identity of an individual as a corporate official in a campaign advertisement in which the individual supported a Federal candidate would not result in a corporate contribution, when the campaign paid all of the costs of the advertisement and the

corporation was not compensating the individual for his time in making the advertisement. Advisory Opinions 1978-77 and 1984-43.

Thus, under Advisory Opinion 1984-23, The Ertl Company could have endorsed a candidate for the Republican nomination in the primary election and issued a press release to that effect so long as its expenditures for the press release were de minimis and not a pretext for general electioneering. It would seem to follow from the interpretation made in Advisory Opinion 1984-23 that The Ertl Company could announce that it was not endorsing a particular candidate and issue a press release to that effect so long as its expenditures were de minimis and not a pretext for general electioneering. In essence, that is what The Ertl Company did when it had its law firm issue the press release that stated it was not endorsing Joe Ertl or any other candidate. The press release was sent to media outlets in the Second District. The record in this matter indicates that the press release was sent for the purpose of clearing up confusion on the part of reporters covering the primary election that Joe Ertl was no longer associated with The Ertl Company, rather than for the purpose of having the press release reprinted or rebroadcast as a news item. Thus, under the reasoning of Advisory Opinion 1984-23, the sending of this press release to the media outlets in the congressional district would not constitute a violation of

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Section 441b.<sup>3</sup>

The letter sent to county and state party officials, however, does not come within the framework of Advisory Opinion 1984-23. Nevertheless, it appears that a small number of such letters were sent, making the activity de minimis. Furthermore, we view the role of the law firm as that of agent or vendor to the Ertl Company.

Accordingly, there is reason to believe that The Ertl Company and George Volanakis, as president, violated 2 U.S.C. § 441b with respect to the press releases sent to the party organizations. Nevertheless, we further recommend that the Commission take no further action with respect to this finding. There is no reason to believe that Klinger, Robinson, McCuskey & Ford and Phillip Klinger violated any provision of the Act on the basis of the complaint in MUR 3080.

**b. Letters to the Editor**

The Act defines contribution and expenditure to include any payment, gift of money, services, or anything of value made by any person for the purpose of influencing any election for Federal office. 2 U.S.C.. §§ 431(8)(A) and 431(9)(A). Contributions, including in-kind contributions, to candidates are to be itemized on the candidate's reports if they aggregate more than \$200 in any calendar year. 2 U.S.C. § 434(b). Independent

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3. That Joe Ertl's brother Fred wrote letters to the editor advocating the election of another candidate and the defeat of Joe Ertl and solicited contributions to another candidate does not alter the characterization of the press release and letter to party officials since Fred Ertl was acting as an individual, not a corporate official, in his letters to the editor.

expenditures by a person other than a political committee are reportable if they aggregate more than \$250 during a calendar year. 2 U.S.C. § 434(c).

This Office is of the opinion that the sending of one or several letters to the editor (even one advocating the election of a candidate or soliciting contributions) would not constitute a contribution or expenditure under the Act because of its de minimis nature.<sup>4</sup> Moreover, there is no evidence in this matter that Fred Ertl expended such funds on writing and sending his letters to the editor that would require reporting. See 2 U.S.C. §§ 434(b) and (c). His reference to The Ertl Company in the letter would not alter this analysis. See Advisory Opinions 1978-77 and 1984-43.

Accordingly, there is no reason to believe Fred F. Ertl, Jr., violated any provision of the Act on the basis of the complaint filed in MUR 3080.

### III. RECOMMENDATIONS

1. Find no reason to believe Phillip Klinger; Klinger, Robinson, McCuskey & Ford; and Fred F. Ertl, Jr. violated any provision of the Federal Election Campaign Act of 1971, as amended, on the basis of the complaint filed in MUR 3080.
2. Find reason to believe The Ertl Company, Inc., and George Volanakis, as president, violated 2 U.S.C. § 441b and take no further action with respect to this finding.
3. Approve the appropriate letters.

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4. If there were evidence that a person had expended substantial sums on preparing and disseminating letters to the editor or had made a widespread dissemination of such letters, this Office would view such circumstances as substantially different than those presented here. In such circumstances, the sums expended would be treated as contributions or expenditures under the Act.

4. Close the file.

Lawrence M. Noble  
General Counsel

Date 9/7/90

BY:   
Lois G. Lerner  
Associate General Counsel

Attachments

1. Complaint
2. Response

1040303157



# MEMORANDUM

TO: LAWRENCE M. NOBLE  
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/DELORES HARRIS *DH*  
COMMISSION SECRETARY

DATE: SEPTEMBER 20, 1990

SUBJECT: MUR 3080 - FIRST GENERAL COUNSEL'S REPORT  
DATED SEPTEMBER 7, 1990.

The above-captioned document was circulated to the Commission on Monday, September 10, 1990 at 4:00 p.m.

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

Commissioner Aikens	XXX
Commissioner Elliott	XXX
Commissioner Josefiak	
Commissioner McDonald	
Commissioner McGarry	
Commissioner Thomas	

This matter will be placed on the meeting agenda  
for TUESDAY, SEPTEMBER 25, 1990.

Please notify us who will represent your Division before the Commission on this matter.

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
 ) MUR 3080  
Phillip Klinger and Klinger, Robinson )  
McCuskey & Ford; )  
Fred F. Ertl, Jr.; )  
George Volanakis, President; )  
The Ertl Company, Inc. )

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for  
the Federal Election Commission executive session on  
September 25, 1990, do hereby certify that the  
Commission decided by a vote of 4-2 to take the  
following actions in MUR 3080:

1. Find no reason to believe Phillip Klinger;  
Klinger, Robinson, McCuskey & Ford; and  
Fred F. Ertl, Jr. violated any provision  
of the Federal Election Campaign Act of  
1971, as amended, on the basis of the  
complaint filed in MUR 3080.
2. Find reason to believe The Ertl Company,  
Inc. and George Volanakis, as president,  
violated 2 U.S.C. § 441b and take no  
further action with respect to this  
finding.
3. Approve the appropriate letters as  
recommended in the General Counsel's  
report dated September 7, 1990.

(continued)

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Federal Election Commission  
Certification for MUR 3080  
September 25, 1990

Page 2

4. Close the file.

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

Attest:

9-26-90  
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

October 16, 1990

**CERTIFIED MAIL  
RETURN RECEIPT REQUESTED**

Carolyn Seely, Campaign Manager  
Joe Ertl Campaign  
640 North Cedar  
Monticello, Iowa 52310

RE: MUR 3080

Dear Ms. Seely:

On September 25, 1990, the Federal Election Commission reviewed the allegations of your complaint dated June 19, 1990, and found that on the basis of the information provided in your complaint, and information provided by the Respondents, there is no reason to believe Phillip Klinger; Klinger, Robinson, McCuskey & Ford; and Fred F. Ertl, Jr. violated any provision of the Federal Election Campaign Act of 1971, as amended, on the basis of your complaint. Accordingly, on September 25, 1990, the Commission closed the file in this matter as it pertains to those Respondents.

The Commission also found on September 25, 1990, that there was reason to believe The Ertl Company, Inc. and George Volanakis, as president, violated 2 U.S.C. § 441b, a provision of the Federal Election Campaign Act of 1971, as amended, and instituted an investigation into this matter. However, after considering the circumstances of this matter, the Commission determined to take no further action against The Ertl Company, Inc. and George Volanakis, as president, and closed the file in this matter on September 25, 1990. This file will appear on the public record within 30 days.

The Federal Election Campaign Act of 1971, as amended

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Carolyn Seely, Campaign Manager  
Page 2

allows a complainant to seek judicial review of the  
Commission's dismissal of this action. See 2 U.S.C.  
§ 437g(a)(8).

Sincerely,

Lawrence M. Noble  
General Counsel



BY: Lois G. Lerner  
Associate General Counsel

Enclosure  
General Counsel's Report

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FEDERAL ELECTION COMMISSION

WASHINGTON D.C. 20463

October 16, 1990

Phillip D. Klinger, Esquire  
Klinger, Robinson, McCuskey & Ford  
401 Old Marion Road, NE  
Cedar Rapids, Iowa 52402

RE: MUR 3080  
Phillip Klinger; Klinger,  
Robinson, McCuskey & Ford;  
Fred Ertl, Jr.; The Ertl  
Company, Inc., and George  
Volanakis, as president

Dear Mr. Klinger:

On June 29, 1990, the Federal Election Commission notified you and your clients, Klinger, Robinson, McCuskey & Ford; Fred Ertl, Jr.; The Ertl Company, Inc., and George Volanakis, as president, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act").

On September 25, 1990, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe Phillip Klinger; Klinger, Robinson, McCuskey & Ford; and Fred F. Ertl, Jr. violated any provision of the Federal election Campaign Act of 1971, as amended, on the basis of the complaint filed in MUR 3080. Accordingly, the Commission closed its file in this matter as it pertains to those Respondents.

Also on September 25, 1990, the Federal Election Commission found reason to believe that your clients, The Ertl Company, Inc. and George Volanakis, as president, violated 2 U.S.C. § 441b, a provision the Act. However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file as it pertains to The Ertl Company, Inc. and George Volanakis, as president. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

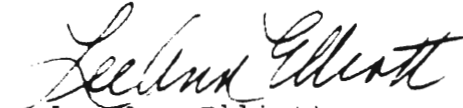
Phillip D. Klinger, Esquire  
Page 2

The Commission reminds you that the sending of press releases by a corporation in connection with a federal election to persons other than media outlets appears to be a violation of 2 U.S.C. § 441b. Your clients should take immediate steps to insure that this activity does not occur in the future.

The file will be made part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Such materials should be sent to the Office of the General Counsel.

If you have any questions, please direct them to Jeffrey Long, the staff member assigned to this matter, at (202) 376-5690.

Sincerely,

  
Lee Ann Elliott  
Chairman

Enclosure  
General Counsel's Report

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D C 20463

THIS IS THE END OF MUR # 3080

DATE FILMED 10/31/90 CAMERA NO. 4

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