FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3172

DATE FILMED 2/7/91 CAMERA NO. 4

CAMERAMAN AS

9103403234993

REPORTS ANALYSIS REFERRAL

TO

OFFICE OF GENERAL COUNSEL

DATE: 26 July 1990

ANALYST: Pat Sheppard

I. COMMITTEE: Harvey Gantt for Senate Campaign Committee (C00242156)
Bobby T. Martin, Treasurer
700 E. Stonewall Street, Suite 655
Charlotte, NC 28202

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

III. BACKGROUND:

Failure to File Forty-Eight Hour Notifications

The Harvey Gantt for Senate Campaign Committee ("the Committee") has failed to file the required Forty-Eight (48) Hour Notifications ("48-Hour Notices") for three (3) contributions totaling $32,500 received prior to the 1990 Primary Election.

The candidate was involved in the 1990 Primary Election held on May 8, 1990. Prior Notice was sent to the Committee on April 2, 1990 (Attachment 2). The Notice includes a section titled "Last Minute Contributions". This section reads "Committees must also file special notices on contributions of $1,000 or more, received during the April 19 through May 5, 1990 reporting period. The notice must reach the appropriate federal and state offices within 48 hours of the committee's receipt".

Schedule A and C of the 1990 12 Day Pre-Runoff Report indicates that the Committee failed to file three (3) 48-Hour Notices for contributions received during the aforementioned reporting period (Attachment 3). The following is a list of the contributions for which no 48-Hour Notices were filed:

Contributor Name	Date	Amount
Katy Close	4/19/90	$ 1,500
Frances Hart	4/19/90	$ 1,000
Mechanics & Farmers Bank (loan guaranteed by candidate)	4/30/90	$30,000

9104032349 4

On June 26, 1990, a Request for Additional Information ("RFAI") was sent to the Committee (Attachment 4). The RFAI noted on an informational basis that the Committee may have failed to file one or more of the required 48-Hour Notices for "last minute" contributions of $1,000 or more. The notice requested the Committee to review their procedures for checking contributions received during the aforementioned time period. In addition, the notice stated that although the Commission may take legal steps, any response would be taken into consideration.

On July 10, 1990, a written response was received from the Committee (Attachment 5). In the response the treasurer stated that they had misinterpreted the instructions for reporting the contributions received between the aforementioned days. The Treasurer stated that the problem had been corrected for the following 48 Hour Notice filing.

IV. OTHER PENDING MATTERS INITIATED BY RAD:

None.

9104032349 5

FEDERAL ELECTION COMMISSION
1989-1990
CANDIDATE INDEX OF SUPPORTING DOCUMENTS - (E)

DATE 20JUL90

Attachment # 1

CANDIDATE NAME/DOCUMENT	OFFICE SOUGHT/	PARTY	RECEIPTS PRIMARY	RECEIPTS GENERAL	DISBURSEMENTS PRIMARY	DISBURSEMENTS GENERAL	COVERAGE DATES / TYPE OF FILER	# OF PAGES	MICROFILM LOCATION	
GANTT, HARVEY B	SENATE	DEMOCRATIC PARTY				NORTH CAROLINA	1990 ELECTION	ID# S0NC00111		
1. STATEMENT OF CANDIDATE										
1990 STATEMENT OF CANDIDATE							14FEB90	4	90SEN/006/1055	
2. PRINCIPAL CAMPAIGN COMMITTEE										
HARVEY GANTT FOR SENATE CAMPAIGN COMMITTEE							ID #C00242156 SENATE			
STATEMENT OF ORGANIZATION							20FEB90	3	90SEN/006/1426	
48 HOUR CONTRIBUTION NOTICE							9MAY90	6	90SEN/009/1639	
48 HOUR CONTRIBUTION NOTICE							18MAY90	5	90SEN/009/2100	
48 HOUR CONTRIBUTION NOTICE							23MAY90	4	90SEN/010/0624	
48 HOUR CONTRIBUTION NOTICE							24MAY90	2	90SEN/009/3668	
48 HOUR CONTRIBUTION NOTICE							24MAY90	4	90SEN/010/0628	
48 HOUR CONTRIBUTION NOTICE							25MAY90	4	90SEN/010/0752	
48 HOUR CONTRIBUTION NOTICE							25MAY90	4	90SEN/010/0832	
48 HOUR CONTRIBUTION NOTICE							29MAY90	4	90SEN/010/0802	
48 HOUR CONTRIBUTION NOTICE							31MAY90	4	90SEN/010/0925	
48 HOUR CONTRIBUTION NOTICE							1JUN90	4	90SEN/010/0936	
48 HOUR CONTRIBUTION NOTICE							4JUN90	4	90SEN/010/1107	
APRIL QUARTERLY			168.865		141.560		1DEC89 -31MAR90	43	90SEN/008/3133	*
APRIL QUARTERLY		- AMENDMENT	-		-		1DEC89 -31MAR90	6	90SEN/009/2112	*
REQUEST FOR ADDITIONAL INFORMATION							1DEC89 -31MAR90	2	90FEC/638/1032	
PRE-PRIMARY			79.875		13.837		1APR90 -18APR90	31	90SEN/009/1067	*
PRE-PRIMARY		- AMENDMENT	79.875		13.837		1APR90 -18APR90	3	90SEN/009/3108	*
NOTICE OF FAILURE TO FILE							1APR90 -18APR90	1	90FEC/638/3901	
REQUEST FOR ADDITIONAL INFORMATION							1APR90 -18APR90	2	90FEC/638/1030	
PRE-RUN-OFF			198.408		238.387		19APR90 -16MAY90	53	90SEN/009/3871	*
PRE-RUN-OFF		- AMENDMENT	-		-		19APR90 -16MAY90	10	90SEN/010/2495	*
REQUEST FOR ADDITIONAL INFORMATION							19APR90 -16MAY90	6	90FEC/644/1247	
JULY QUARTERLY				405.668		303.742	17MAY90 -30JUN90	96	90SEN/012/2212	
TOTAL			447.148	405.668	393.764	303.742		301	TOTAL PAGES	

3. AUTHORIZED COMMITTEES
4. JOINT FUNDRAISING COMMITTEES AUTHORIZED BY THE CAMPAIGN

* All reports that have been reviewed

Cash on Hand as of 6/30/90 - $155,290.42

Debts as of 6/30/90 - $ 75,439.24

9104032349 6

PRIMARY ELECTION

REPORT NOTICE

FEDERAL ELECTION COMMISSION

NORTH CAROLINA April 2, 1990

FOR COMMITTEES ONLY INVOLVED IN THE PRIMARY (05/08/90):

REPORT	REPORTING PERIOD1/	REG./CERT. MAILING DATE2/	FILING DATE
PRE-PRIMARY	04/01/90- 04/18/90	04/23/90	04/26/90
JULY QUARTERLY	04/19/90- 06/30/90	07/15/90	07/15/90

FOR COMMITTEES INVOLVED IN BOTH THE PRIMARY (05/08) AND RUN-OFF (06/05):

REPORT	REPORTING PERIOD1/	REG./CERT. MAILING DATE2/	FILING DATE
PRE-PRIMARY	04/01/90- 04/18/90	04/23/90	04/26/90
PRE-RUN-OFF	04/19/90- 05/16/90	05/21/90	05/24/90
JULY QUARTERLY	05/17/90- 06/30/90	07/15/90	07/15/90

WHO MUST FILE
PRINCIPAL CAMPAIGN COMMITTEES OF CONGRESSIONAL "CANDIDATES" who seek nomination in the May 8, 1990, North Carolina Primary and, if held, the June 5, 1990, Run-off.

WHAT MUST BE REPORTED
All financial activity that occurred during the reporting period (or before, if not previously reported).

REPORTING FORMS
Candidate committees use Form 3 (enclosed). If the campaign has more than one authorized committee, the principal campaign committee must also file a consolidated report on Form 3Z.

WHERE TO FILE
Consult the instructions on the back of the Form 3 Summary Page. Note state filing requirements also.

1/The period begins with the close of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.
2/Reports sent by registered or certified mail must be postmarked by the mailing date. Otherwise, they must be received by the filing date.

FOR INFORMATION, Call: 202/376-3120 or 800/424-9530
(over)

NORTH CAROLINA

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

LAST-MINUTE CONTRIBUTIONS
Committees must also file special notices on contributions of $1,000 or more, received during the following periods:

- For candidates involved in the Primary: 04/19/90 through 05/05/90
- For candidates involved in the Run-off: 05/17/90 through 06/02/90

The notice must reach the appropriate federal and state offices within 48 hours of the committee's receipt.

COMPLIANCE
TREASURERS OF POLITICAL COMMITTEES ARE RESPONSIBLE FOR FILING ALL REPORTS ON TIME. FAILURE TO DO SO IS SUBJECT TO ENFORCEMENT ACTION. COMMITTEES FILING ILLEGIBLE REPORTS OR USING NON-FEC FORMS WILL BE REQUIRED TO REFILE.

9104032349 8

SCHEDULE A **ITEMIZED RECEIPTS**

Use separate schedule(s) for each category of the Detailed Summary Page

PAGE 32 OF 34

FOR LINE NUMBER: 11(A)1

Any information copied from such Reports and Statements may not be sold or used by any person for the purpose of soliciting contributions or for commercial purposes, other than using the name and address of any political committee to solicit contributions from such committee.

NAME OF COMMITTEE (in Full)

HARVEY GANTT FOR SENATE CAMPAIGN COMMITTEE C00242156

Full Name, Mailing Address and ZIP Code	Name of Employer / Occupation	Date (month, day, year)	Amount of Each Receipt this Period
A. Frank M. Bishop 6105 Weatherly Dr. Atlanta, GA 30328 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Ivesco Capital Mgmt. Occupation: Information requested Aggregate Year-to-Date > $ 500.00	4/19/90	500.00
B. Ann S. Close Box 100 Fort Mill, SC 29715 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Self-employed Occupation: Information Requested Aggregate Year-to-Date > $ 500.00	4/19/90	500.00
C. Katy Close, MD ** 6177 East Shore Dr. Columbia SC 29206 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Richland Memorial Hospital Occupation: Physician Aggregate Year-to-Date > $ 1,500.00	4/19/90	1,500.00
D. Frances Hart 2430 Terrace Way Columbia, SC 29205 Receipt For: [X] Primary [ ] General [ ] Other (specify):	Energy Research Foundation Occupation: Chairwoman Aggregate Year-to-Date > $ 1,000.00	4/19/90	1,000.00
E. David L. Milling 2223 E. Deerfield Dr. Media, PA 19063 Receipt For: [X] Primary [ ] General [ ] Other (specify)	International Envelope, Inc. Occupation: Chairman Aggregate Year-to-Date > $ 500.00	4/19/90	500.00
F. James E. Bostic, Jr. 11835 Wildwood Springs Dr. Roswell, GA 30075 Receipt For: [X] Primary [ ] General [ ] Other (specify)	Georgia-Pacific Corp Occupation: Information requested Aggregate Year-to-Date > $ 500.00	4/19/90	500.00
G. **Re: Katy Close Note: her aggregate primary contributions amount to $1,500.00; redesignation of $500.00 for runoff Receipt For: [ ] Primary [ ] General [ ] Other (specify)	Occupation Aggregate Year-to-Date > $		

SUBTOTAL of Receipts This Page (optional) $4,500.00

TOTAL This Period (last page this line number only)

SCHEDULE C
(Revised 2/88)

LOANS

Page 1 of 1 for Line number 13 (for accurate calculation for each numbered line)

Name of Committee (In Full)
HARVEY GANTT FOR SENATE CAMPAIGN COMMITTEE C00242156

A. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
Harvey B. Gantt (from personal funds) 516 N. Poplar Street Charlotte, NC 28202 Status: ☐Primary ☐Guarantor ☐Other (specify):	15,000.00		15,000.00

Terms: Date Incurred _____ Date Due Open Interest Rate 0 (Mon) ☐ Secured

List All Endorsers or Guarantors (If any) to Item A

1. Full Name, Mailing Address and ZIP Code N/A From Personal Funds	Name of Employer Occupation Amount Guaranteed Outstanding: $	
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $	
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $	

B. Full Name, Mailing Address and ZIP Code of Loan Source	Original Amount of Loan	Cumulative Payment To Date	Balance Outstanding at Close of This Period
Mechanics & Farmers Bank 700 East Stonewall Street Charlotte, North Carolina 28202 Status: ☐Primary ☐Guarantor ☒Other (specify): Runof	30,000.00		30,000.00

Terms: Date Incurred 4/30/90 Date Due _____ Interest Rate _____ (Mon) ☒ Secured

List All Endorsers or Guarantors (If any) to Item B

1. Full Name, Mailing Address and ZIP Code Harvey B. Gantt 517 N. Poplar St. Charlotte, NC 28202	Name of Employer Candidate Occupation Amount Guaranteed Outstanding: $30,000.00	
2. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $	
3. Full Name, Mailing Address and ZIP Code	Name of Employer Occupation Amount Guaranteed Outstanding: $	

SUBTOTALS This Period This Page (optional)	
TOTALS This Period (last page in this line only)	45,000.00

Carry outstanding balance only to LINE 8, Schedule B, for this line. If no Schedule B, carry forward to appropriate line of Summary.

90000374

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

RQ-2

JUN 26 1990

Bobby T. Martin, Treasurer
Harvey Gantt For Senate Campaign
Committee
700 E. Stonewall St., Suite 655
Charlotte, NC 28202

Identification Number: C00242156

Reference: 12 Day Pre-Runoff Report (4/19/90-5/16/90)

Dear Mr. Martin:

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

-Schedule A of your report (pertinent portion attached) discloses a contribution(s) which appears to exceed the limits set forth in the Act. An individual or a political committee other than a qualified multicandidate committee may not make a contribution to a candidate for federal office in excess of $1,000 per election. The term "contribution" includes any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for federal office. (2 U.S.C. §441a(a) and (f); 11 CFR §110.1(b), (e) and (k))

If the contribution(s) in question was incompletely or incorrectly disclosed, you should amend your original report with the clarifying information. If the contribution(s) you received exceeds the limits, you should either refund to the donor the amount in excess of $1,000 or get the donor to redesignate and/or reattribute the contribution in writing. All refunds, redesignations, and reattributions must be made within sixty days of the treasurer's receipt of the contribution. Copies of refund checks and copies of letters reattributing or redesignating the contributions in question may be used to respond to this letter. Refunds are reported on Line 20 of the Detailed Summary Page and on Schedule B of the report covering the period in which they are made. Redesignations and reattributions are reported as memo entries on Schedule A of the report covering the period in which the authorization for the redesignation and/or reattribution is received. (11 CFR §104.8(d)(2), (3) and (4))

Although the Commission may take further legal steps, prompt action by you to refund or seek redesignation and/or reattribution of the excessive amount will be taken into consideration.

-Schedule C of your report fails to in..ude information required by Commission Regulations. You must provide the date incurred, the original source and amount of the loan, the due date, the interest rate, the cumulative payment, and the outstanding balance. Further, if there are any endorsers or guarantors, their mailing address along with the name of their employer and occupation must be disclosed. Please amend your report to include the due date and interest rate. (11 CFR §§100.7(a)(1) and 104.3(d))

-Please be reminded that contributions from other political committees (i.e. Committee to Re-Elect Ed Towns) should be reported on Line 11(c) of the Detailed Summary Page.

-Schedule A of your report indicates that your committee may have failed to file one or more of the required 48 hour notices regarding "last minute" contributions recei·ed by your committee after the close of books for the 1990 12 Day Pre-Primary Report. A principal campaign committee must notify the Commission, in writing, within 48 hours of any contribution of $1,000 or more received between two and twenty days before an election. These contributions are then reported on the next report required to be filed by the committee. To ensure that the Commission is notified of last minute contributions of $1,000 or more to your campaign, it is recommended that you review your procedures for checking contributions received during the aforementioned time period. Although the Commission may take legal action, any response you wish to make concerning this matter will be taken into consideration. (11 CFR §104.5(f))

PTS

A written response or an amendment to your original report(s) correcting the above problem(s) should be .iled with the Secretary of the Senate, 232 Hart Senate Office Building, Washington, DC 20510 within fifteen (15) days of the date of this letter. If you need assistance, please feel free to contact me on our toll-free number, (800) 424-9530. My local number is (202) 376-2480.

Sincerely,

Pat Sheppard

Pat Sheppard
Senior Reports Analyst
Reports Analysis Division

9104023502

Amended 1990 12 Day Pre-Runoff Report
Attachment # [redacted]
Page 1 of 1

GANTT
FOR U.S. SENATE

1990 JUL 10 AM 10 13

July 6, 1990

Secretary of The Senate
232 Hart Senate Office Building
Washington, DC 20510

Re: 12 Day Pre-Runoff Report

Dear Sir/ Madam:

This letter is in response to Ms. Pat Sheppard's June 26th letter. Our response to the issues raised in that letter follows:

A. Redesignation of Contributions: The Pre-Runoff Report disclosed four contributions which exceeded the $ 1,000 limit. We were able to obtain redesignation for two of the contributions in timely fashion and have refunded the remaining two excess contributions. Documentation for these actions is enclosed. As a result of Ms. Sheppard's letter we discovered that appropriate followup was not being performed. Staff responsibility for pursuing redesignations and reattributions has been revised and this information is now being reported directly to the Treasurer to ensure timely compliance with FEC regulations.

B. Amended Schedule C: An amended report with a corrected Schedule C is enclosed.

C. Last Minute Contributions: Due to a misinterpretation of instructions all contributions between April 19th and May 5th were reported on one report. The misunderstanding was discovered while preparing the May 5th report. "Last Minute" contributions were reported timely for the runoff election.

If I can provide any further assistance in this matter, please do not hesitate to contact me.

Sincerely,

Bobby T. Martin
Treasurer

700 East Stonewall Street, Suite 655, Charlotte, N.C. 28202, 704/338-1990

Paid for by Harvey Gantt for Senate Campaign Committee

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RECEIVED
FEDERAL ELECTION COMMISSION
SECRETARIAT

90 NOV 13 AM 10: 27

SENSITIVE

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

FIRST GENERAL COUNSEL'S REPORT

RAD Referral #90L-36
STAFF MEMBER: Xavier K. McDonnell

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Harvey Gantt for Senate Campaign Committee
Bobby T. Martin, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 434(a)(6)
11 C.F.R. § 104.5(f)

INTERNAL REPORTS CHECKED: Disclosure Reports

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

The Reports Analysis Division ("RAD") referred the Harvey Gantt for Senate Campaign Committee (the "Committee"), and Bobby T. Martin, as treasurer, ("Respondents") to the Office of General Counsel for failing to report within 48 hours the receipt of three contributions for $1,000 or more which were received after the 20th day, but more than 48 hours before an election. 2 U.S.C. § 434(a)(6)(A).

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that the principal campaign committee of a candidate shall, within 48 hours of receipt, notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by an authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C.

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§ 434(a)(6)(A). This notification requirement is in addition to all other reporting requirements under the Act. 2 U.S.C. § 434(a)(6)(B).

Harvey D. Gantt ran in the 1990 Senate primary election in North Carolina, held on May 8, 1990. In order to comply with the Act's reporting requirements for that election, a candidate's committee was required to report, within 48 hours of receipt, each contribution of $1,000 or more received from April 19 through May 5, 1990.[1]

When reviewing the Committee's 12 Day Pre-Runoff Report, RAD determined that the Respondents received three contributions for $1,000 or more after the 20th day but more than 48 hours before the primary election which were not reported within 48 hours of receipt. Specifically, on April 19, 1990, the Committee received a $1,500 contribution from Katy Close, and a $1,000 contribution from Frances Hart. On April 30, 1990, the Committee received a $30,000 bank loan which was guaranteed by the candidate.

On June 26, 1990, RAD informed the Committee of its apparent failure to file these reports. In a July 6, 1990 response filed with the Commission, the Committee asserted that: "[d]ue to a misinterpretation of instructions all contributions between April 19 and May 5 were reported on one report. The misunderstanding was discovered while preparing the May 5th

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1. In fact, the Commission sent a "Primary Election Report Notice", dated April 2, 1990, which informed the Committee of the requirement that it file reports for "last-minute" contributions within 48 hours of receipt. That Report indicated the exact dates to which the requirement applied. See Attachment 1 at page 6.

report." Attachment 1 at page 11.

A 48 hour notice, filed by the Committee on May 9, 1990, appears to be the special notice which the Respondents acknowledge was improperly filed due to a misinterpretation of instructions. The notice discloses the receipt of $35,350 in reportable contributions from 26 persons during the reporting period, but does not include the 3 contributions referred by RAD. See Attachment 2.[2] As noted, this notice was not filed until May 9, 1990, a day after the election. Therefore, these contributions were not reported within 48 hours of receipt. Accordingly, the Office of General Counsel recommends that the Commission find reason to believe that the Harvey Gantt for Senate Campaign Committee, and Bobby T. Martin, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) by failing to file special notices for a total of $67,850 in contributions of $1,000 or more within 48 hours of receipt.

III. DISCUSSION OF PRE-PROBABLE CAUSE CONCILIATION AGREEMENT AND CIVIL PENALTY

2. The notice filed on May 9, 1990, discloses the receipt of a total of $39,350 in contributions of $1,000 or more which were received between April 19 and May 8, 1990. Within that special notice were contributions totaling $4,000 which were received on May 8, 1990, which was after the reporting period.

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IV. RECOMMENDATIONS

1. Open a MUR.

2. Find reason to believe that the Harvey Gantt for Senate Campaign Committee and Bobby T. Martin, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

3. Enter into pre-probable cause conciliation with the Respondents.

4. Approve the attached conciliation agreement and appropriate letter.

Lawrence M. Noble
General Counsel

11/19/90
Date

BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments:
1. Referral Materials
2. Report filed May 9, 1990
3. Factual and Legal Analysis
4. Proposed Conciliation Agreement

9104032350 7

BEFORE THE FEDERAL ELECTION COMMISSION

(MUR 3172)

In the Matter of	)	
	)	RAD Referral 90L-36
Harvey Gantt for Senate Campaign	)	
Committee Bobby T. Martin, as	)	
treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on November 15, 1990, the Commission decided by a vote of 5-0 to take the following actions in RAD Referral 90L-36:

1. Open a MUR.

2. Find reason to believe that the Harvey Gantt for Senate Campaign Committee and Bobby T. Martin, as treasurer, violated 2 U.S.C. § 434(a)(6)(A).

3. Enter into pre-probable cause conciliation with the Respondents, as recommended in the General Counsel's Report dated November 9, 1990.

(continued)

9104032350 8

4. Approve the attached conciliation agreement and appropriate letter, as recommended in the General Counsel's Report dated November 9, 1990.

Commissioners Aikens, Elliott, Josefiak, McGarry, and Thomas voted affirmatively for the decision; Commissioner McDonald did not cast a vote.

Attest:

11/15/90
Date

Hilda Arnold
for Marjorie W. Emmons
Secretary of the Commission

9104023509

Received in the Secretariat: Tues., Nov. 13, 1990 10:27 a.m.
Circulated to the Commission: Tues., Nov. 13, 1990 4:00 p.m.
Deadline for vote: Thurs., Nov. 15, 1990 4:00 p.m.

dh

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 27, 1990

Bobby T. Martin, Treasurer
Harvey Gantt for Senate
Campaign Committee
700 E. Stonewall Street, Suite 655
Charlotte, NC 28202

RE: MUR 3172
Harvey Gantt for Senate
Campaign Committee, and
Bobby T. Martin, as treasurer

Dear Mr. Martin:

On November 15, 1990, the Federal Election Commission found that there is reason to believe that the Harvey Gantt for Senate Campaign Committee ("Committee") and you, as treasurer, violated 2 U.S.C. § 434(a)(6)(A), a provision the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against the Committee and you, as treasurer. You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter. Please submit such materials to the General Counsel's Office within 15 days of your receipt of this letter. Where appropriate, statements should be submitted under oath.

In the absence of any additional information demonstrating that no further action should be taken against the Committee and you, as treasurer, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

9 1 0 4 0 3 2 3 5 1 0

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

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

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

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

For your information, we have attached a brief description of the Commission's procedures for handling possible violations of the Act. If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lee Ann Elliott

Lee Ann Elliott
Chairman

Enclosures
1. Factual and Legal Analysis
2. Procedures
3. Designation of Counsel Form
4. Conciliation Agreement

9104032351 1

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR: 3172

Respondents: Harvey Gantt for Senate Campaign Committee, and Bobby T. Martin, as treasurer

I. GENERATION OF MATTER

The Reports Analysis Division ("RAD") referred the Harvey Gantt for Senate Campaign Committee (the "Committee"), and Bobby T. Martin, as treasurer, ("Respondents") to the Office of General Counsel for failing to report within 48 hours the receipt of three contributions for $1,000 or more which were received after the 20th day, but more than 48 hours before an election. 2 U.S.C. § 434(a)(6)(A).

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended, (the "Act") provides that the principal campaign committee of a candidate shall, within 48 hours of receipt, notify the Clerk, the Secretary, or the Commission, and the Secretary of State, as appropriate, in writing, of any contribution of $1,000 or more received by an authorized committee of such candidate after the 20th day, but more than 48 hours before, any election. 2 U.S.C. § 434(a)(6)(A). This notification requirement is in addition to all other reporting requirements under the Act. 2 U.S.C. § 434(a)(6)(B).

Harvey D. Gantt ran in the 1990 Senate primary election in North Carolina, held on May 8, 1990. In order to comply with the

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Act's reporting requirements for that election, a candidate's committee was required to report, within 48 hours of receipt, each contribution of $1,000 or more received from April 19 through May 5, 1990.

When reviewing the Committee's 12 Day Pre-Runoff Report, RAD determined that the Respondents received three contributions for $1,000 or more after the 20th day but more than 48 hours before the primary election which were not reported within 48 hours of receipt. Specifically, on April 19, 1990, the Committee received a $1,500 contribution from Katy Close, and a $1,000 contribution from Frances Hart. On April 30, 1990, the Committee received a $30,000 bank loan which was guaranteed by the candidate.

On June 26, 1990, RAD informed the Committee of its apparent failure to file these reports. In a July 6, 1990 response filed with the Commission, the Committee asserted that: "[d]ue to a misinterpretation of instructions all contributions between April 19 and May 5 were reported on one report. The misunderstanding was discovered while preparing the May 5th report."

A 48 hour notice, filed by the Committee on May 9, 1990, appears to be the special notice which the Respondents acknowledge was improperly filed due to a misinterpretation of instructions. The notice discloses the receipt of $35,350 in reportable contributions from 26 persons during the 48 hour reporting period, but does not include the 3 contributions referred by RAD. As noted, this notice was not filed until May 9, 1990, a day after the election. Therefore, these contributions were not reported

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within 48 hours of receipt. Accordingly, there is reason to believe that the Harvey Gantt for Senate Campaign Committee, and Bobby T. Martin, as treasurer, violated 2 U.S.C. § 434(a)(6)(A) by failing to file special notices for a total of $67,850 in contributions of $1,000 or more within 48 hours of receipt.

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DESCRIPTION OF PRELIMINARY PROCEDURES FOR PROCESSING POSSIBLE VIOLATIONS DISCOVERED BY THE FEDERAL ELECTION COMMISSION

Possible violations discovered during the normal course of the Commission's supervisory responsibilities shall be referred to the Enforcement Division of the Office of the General Counsel where they are assigned to a staff member.

Following review of the information which generated the matter, a recommendation on how to proceed, based on a preliminary legal and factual analysis, shall be submitted to the Commission. This initial report shall recommend either: (a) that the Commission find reason to believe that a possible violation of the Federal Election Campaign Act of 1971, as amended (hereinafter "the Act") may have occurred or is about to occur; or (b) that the Commission find no reason to believe that a possible violation of the Act has occurred or is about to occur, and that the Commission close the file in the matter.

Thereafter, if the Commission decides by an affirmative vote of four Commissioners to open a Matter Under Review (MUR) and finds that there is reason to believe that a violation of the Act has been committed or is about to be committed, the Office of the General Counsel shall conduct an investigation into the matter. Within 15 days of notification of the Commission's finding(s), a respondent(s) may submit any factual or legal materials relevant to the allegations. During its investigation, the Commission shall have the power to subpoena documents, to subpoena individuals to appear for depositions, and to order written answers to interrogatories. The respondent(s) may be contacted more than once by the Commission during its investigation.

If, during this period of investigation, the respondent(s) indicate a desire to enter into conciliation, the Office of the General Counsel may recommend that the Commission enter into conciliation prior to a finding of probable cause to believe a violation has been committed. Conciliation is an attempt to correct or prevent a violation of the Act by informal methods of conference and persuasion. Most often, the result of conciliation is a agreement signed by the Commission and the respondent(s). The Conciliation Agreement must be adopted by four votes of the Commission before it becomes final. After signature by the Commission and the respondent(s), the Commission shall make public the Conciliation Agreement.

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December 14, 1990

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RECEIVED
FEDERAL ELECTION COMMISSION
LEGAL COUNSEL

Mr. Xavier K. McDonnell
General Counsel's Office
Federal Election Commission
Washington, DC 20463

Re: MUR 3172
Harvey Gantt For Senate Campaign Committee
Bobby T. Martin, Treasurer

Dear Mr. McDonnell:

In response to your letter dated November 27, 1990, the Harvey Gantt For Senate Campaign Committee and Bobby T. Martin, Treasurer, request that conciliation negotiations be entered into to resolve the above referenced matter.

While we do not dispute the basic facts outlined in the factual and legal analysis, we request that the FEC conciliate in light of the following factors:

1. This is the first federal campaign for both the Committee and Treasurer.

2. At the time of the infractions the Committee was relying heavily on volunteer staff, including the Treasurer, to perform the bulk of its financial operations.

3. The infractions were not wilful or intentional violations of the Federal Election Laws and Regulations and were not intended to avoid compliance or result in any benefit to the Committee or campaign or any detriment to the opposing candidates or campaigns.

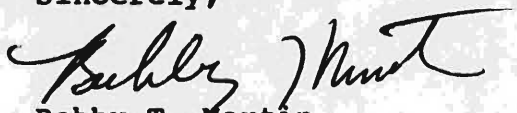
700 East Stonewall Street, Suite 500, Charlotte, N.C. 28202, 704/338-1990

Paid for by Harvey Gantt for Senate Campaign Committee

4. No public policy purpose will be served by the imposition of a substantial penalty in that the Committee and the Treasurer are now aware of the legal requirements.

If I can provide any additional information in this matter, please do not hesitate to contact me.

Sincerely,



Bobby T. Martin

BTM:msp

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3172
Harvey Gantt for Senate Committee, and	)	
Bobby T. Martin, as treasurer	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. **BACKGROUND**

On November 15, 1990, the Commission found reason to believe the Harvey Gantt for Senate Committee and Bobby T. Martin, as treasurer ("Respondents") violated 2 U.S.C. § 434(a)(6)(a) by failing to file special notices, within 48 hours of receipt, for $67,850 in contributions received after the 20th day but more than 48 hours before the Senate primary election in North Carolina, held on May 8, 1990. On the same date, the Commission determined to enter into pre-probable cause conciliation with the Respondents, and approved a conciliation agreement in settlement of this matter.

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II. **RECOMMENDATIONS**

1. Accept the attached conciliation agreement with the Harvey Gantt for Senate Committee, and Bobby T. Martin, as treasurer.

2. Approve the appropriate letter.

3. Close the file.

Lawrence M. Noble
General Counsel

Date 1/4/91

BY: Lois G. Lerner
Associate General Counsel

Staff Assigned: Xavier K. McDonnell

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Harvey Gantt for Senate Committee,	)	MUR 3172
and Bobby T. Martin, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons Secretary of the Federal Election Commission, do hereby certify that on January 10, 1991, the Commission decided by a vote of 6-0 to take the following actions in MUR 3172:

1. Accept the conciliation agreement with the Harvey Gantt for Senate Committee, and Bobby T. Martin, as treasurer, as recommended in the General Counsel's Report dated January 4, 1991.

2. Approve the appropriate letter, as recommended in the General Counsel's Report dated January 4, 1991.

3. Close the file.

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

Attest:

1/10/91
Date

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

Received in the Secretariat: Tues., Jan. 8, 1991 11:12 a.m.
Circulated to the Commission: Tues., Jan. 8, 1990 4:00 p.m.
Deadline for vote: Thurs., Jan. 10, 1991 4:00 p.m.

dr

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CLOSED

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 18, 1991

Bobby T. Martin, Treasurer
Harvey Gantt for Senate
Campaign Committee
700 E. Stonewall Street
Suite 500
Charlotte, NC 28202

RE: MUR 3172
Harvey Gantt for Senate
Campaign Committee, and
Bobby T. Martin, as treasurer

Dear Mr. Martin:

On January 10, 1991, the Federal Election Commission accepted the signed conciliation agreement submitted on your behalf in settlement of a violation of 2 U.S.C. § 434(a)(6)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter.

This matter will become a part of the public record within 30 days. If you wish to submit any factual or legal materials to appear on the public record, please do so within ten days. Such materials should be sent to the Office of the General Counsel. Please be advised that information derived in connection with any conciliation attempt will not become public without the written consent of the respondent and the Commission. See 2 U.S.C. § 437g(a)(4)(B). The enclosed conciliation agreement, however, will become a part of the public record.

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact Xavier K. McDonnell, the attorney assigned to this matter, at (202) 376-8200.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

Enclosure
Conciliation Agreement

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RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE SERVICES BRANCH

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90 DEC 28 PM 3: 29

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR: 3172
Harvey Gantt for Senate Campaign	)	
Committee and	)	
Bobby T. Martin, as treasurer	)	

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("the Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that the Harvey Gantt For Senate Campaign Committee (the "Committee"), and Bobby T. Martin as treasurer, ("Respondents") violated 2 U.S.C. § 434(a)(6)(A).

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

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

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

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

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

1. The Harvey Gantt For Senate Committee is the

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principal campaign committee of Harvey Gantt (the "candidate"), and is a political committee within the meaning of 2 U.S.C. § 431(4).

2. Bobby T. Martin is the treasurer of the Harvey Gantt for Senate Campaign Committee.

3. Pursuant to 2 U.S.C. § 434(a)(1), each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of 2 U.S.C. § 434. Pursuant to 2 U.S.C. § 434(a)(6)(A), the candidate's principal campaign committee must notify the Clerk, the Secretary, or the Commission of any contributions of $1,000 or more received after the 20th day, but more than 48 hours before an election. This notification must be made within 48 hours of receipt, and the contributions must also be itemized in the committee's next scheduled report. 2 U.S.C. 434(a)(6)(B).

4. The candidate was involved in the Senate primary election in North Carolina, held on May 8, 1990.

5. In order to comply with 2 U.S.C. § 434(a)(6)(A), the Respondents were required to file notices for all contributions of $1,000 or more received from April 19 through May 5, 1990.

6. Respondents received three contributions of $1,000 or more, totaling $32,500, between April 19 through May 5, 1990, for which no 48 hour notices were filed. In addition, a report filed with the Commission on May 9, 1990, disclosed that between

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April 19 and May 5, 1990, the Committee received $35,350 in contributions which were not reported within 48 hours of receipt.

V. Respondents failed to file notices, within 48 hours of receipt, for $67,850 in contributions of $1,000 or more, received after the 20th day but more than 48 hours before the May 8, 1990 primary election, and thereby violated 2 U.S.C. § 434(a)(6)(A).

VII. Respondents will pay a civil penalty to the Federal Election Commission in the amount of fifty-seven BTM hundred 5700 BTM pursuant to 2 U.S.C. § 437g(a)(5)(A).

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

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

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

XI. This Conciliation Agreement constitutes the entire

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agreement between the parties on the matters raised herein, and no other statement, promise, or agreement, either written or oral, made by either party or by agents of either party, that is not contained in this written agreement shall be enforceable.

FOR THE COMMISSION:

Lawrence M. Noble
General counsel

BY: _____ Date 1/18/91
Lois G. Lerner
Associate General Counsel

FOR THE RESPONDENTS:

_____ Date 12/24/90
Name: Bobby T. Martin
Position: Treasurer

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3172

DATE FILMED 2/7/91 CAMERA NO. 4

CAMERAMAN AS

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