FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

✓ Microfilm

_____ Public Rcds

_____ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3422.

1/13/94

9403096273 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 10 1993

Jimmy C. Davis
Route 1, Box 281
Smithville, Tennessee 37166

RE: MUR 3422

Dear Mr. Davis:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely,

Tonda M. Mott
Attorney

9403096273 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 10 1993

Jannie G. Taylor
Dyer and Taylor
P.O. Box 835
Suite 1000
Andrew Johnson Office Plaza
912 South Gay Street
Knoxville, Tennessee 37901

RE: MUR 3422
Jannie G. Taylor

Dear Ms. Taylor:

This is to advise you that this matter is now closed. The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public.

Although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any factual or legal materials to appear on the public record, please do so as soon as possible. While the file may be placed on the public record before receipt of your additional materials, any permissible submissions will be added to the public record when received.

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

Sincerely,

Tonda M. Mott
Attorney

9403096273 6

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3422

DATE FILMED 10/27/93 CAMERA NO. 2

CAMERAMAN MC

9304098241 7

AR-91-30

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

September 12, 1991

MEMORANDUM

TO: Lawrence M. Noble
General Counsel

THROUGH: John C. Surina
Staff Director

FROM: Robert J. Costa RJC - 9/12/91
Assistant Staff Director
Audit Division

SUBJECT: Taylor for Congress Committee - Matters Referred to the Office of General Counsel.

Attached are Exhibits A and B which were approved by the Commission on September 11, 1991 for referral to your office.

If you have any questions regarding these matters, please contact Wanda Thomas or Rick Halter at 219-3720.

Attachments as stated.

93040982418

Contributions Received in Excess of the Limitation

1. Loans

Section 441a(a) of Title 2 of the United States Code states that no person shall make contributions to any candidate and his authorized committees with respect to any election for Federal office which, in the aggregate, exceed $1,000. Further, Section 431(8)(A)(i) states that 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. Further, Section 110.1(b)(2)(i) of Title 11 of the Code Federal Regulations states that "with respect to any election" means in the case of a contribution designated in writing by the contributor for a particular election, the election so designated.

A review of loans received by the Committee revealed a loan made to the Committee on October 3, 1988 in the amount of $25,000 via a check signed by Jannie G. Taylor, the candidate's spouse. This loan appears to constitute a contribution to the general election in excess of the limitation by $23,000, assuming $1,000 contributions to the general election and the special general election, both held on November 8, 1988.

At a conference held on June 24, 1989, the candidate stated that the $25,000 loan received by the Committee was intended to be a loan from the candidate. The candidate stated that the loan check was drawn on a joint checking account and that his wife signed the check in order to advance funds to the campaign while the candidate was out of town. He stated that it was not his wife's intent to make a loan to the campaign. The Audit staff was provided with a signed statement from Jannie G. Taylor, dated June 23, 1989, relating the above information.

The $25,000 loan was repaid in four installments, the last of which occurred on May 12, 1989.

In the interim audit report, the Audit staff recommended that the Committee provide any additional information or comment regarding the loan check signed by the candidate's wife.

In response to the interim report, the candidate states that, "[T]he funds represented by this loan were funds earned by me and were loaned by me to my campaign. The only role that my wife served was that of an agent, in terms of endorsing and delivering the check drawn on our joint account at my request, at a time when I was out of town."

93040982419

Although the facts indicate that there appears to be a violation of 2 U.S.C. §441a(a), it is the Audit staff's opinion that the violation was technical in nature.

2. Direct Contributions Received from Individuals

A review of contributions received from individuals revealed excessive contributions, totalling $4,500, were received from three individuals. Two of the three contributions received from one individual were written instruments drawn on a joint account. The three contributions received from the second individual were drawn on single-holder checks. In neither case was there any indication, that the checks represented a contribution from other than the signatory. Each of the three checks received from the third individual were written on single-holder checks; however, the signatory apparently annotated each check to include the name of another individual (i.e., For...).

At the Exit Conference, a spokesperson for the Committee indicated that the individuals who made the excessive contributions are known to the Committee and that the contributions were intended to be from other family members despite the signatures on the contribution checks. A Committee spokesperson stated that the Committee would contact the contributors in question to obtain documentation to support the contributors' intent, as well as the source of funds.

In response to the interim audit report, the Committee provided letters from the contributors which authorize the reattribution of the excessive contributions to the contributors' spouses. The reattributions were not made on a timely basis.

3. Direct Contributions Received from Political Committees

a. Contributions Designated for the General Election

Section 441a(a)(2)(A) of Title 2 of the United States Code states that no multicandidate political committee shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $5,000.

A review of contributions received from political committees revealed an apparent excessive contribution made by the Majority Congress Committee. The Majority Congress

9304098242 0

Committee made two contributions to the Committee; one dated September 27, 1988 for $5,000, and the second, dated November 1, 1988 for $2,000, each was designated on the face of the check for "general."1/ The Committee reported the November 1, 1988 receipt of the $2,000 contribution as attributable to "Sp. General" [special general election held on November 8, 1988], and the October 3, 1988 receipt of the $5,000 contribution as attributable to the "General".

At the Exit Conference, a Committee spokesperson stated that one of the checks had been intended for the Special General election. A Committee spokesperson stated that they would contact the Majority Congress Committee regarding this issue.

In response to the interim audit report, the Committee submitted a letter from the Majority Congress Committee which redesignates its November 1, 1988 contribution of $2,000.00 to the special general election.2/

b. Contributions Designated for the Primary Election

Section 110.2(b)(1)(i) of Title 11 of the Code of Federal Regulations provides that a contribution designated in writing for a particular election but made after that election, shall be made only to the extent that the contribution does not exceed net debts outstanding from such election. To the extent that such contribution exceeds net debts outstanding, the candidate or the candidate's authorized political committee shall return or deposit the contribution within ten days from the date of the treasurer's receipt of the contribution, and if deposited, then within sixty days from the date of the treasurer's receipt, the treasurer shall take the following action, as appropriate: refund the contribution; or obtain a written redesignation by the contributor for another election.

9304098242 1

1/ The Majority Congress Committee reported both contributions as designated for the "General" election.

2/ Since the Special General and General elections were simultaneous, the Majority Congress Committee's limitation for the two elections was $10,000. The two contributions at issue here total $7,000. If the contributions had not been designated, they would not be excessive, because the Committee could have attributed the $2,000 in excess of the Majority Congress Committee's limitation for the General election to the Special General election without obtaining a redesignation. See AO 1986-31.

A review of contributions received from political committees revealed that contributions from three political committees were made after the date of the Primary but were designated for the Primary. The Committee received $2,500 from United Steelworkers of America, dated November 2, 1988; $5,000 from the Tennessee Democratic Party dated October 31, 1988; and $1,000 from Drive Political Fund dated February 24, 1989.

The Audit staff determined, from its review of receipts and expenditures, that the Committee had no debts outstanding as of the dates of the Primary, Special Primary and Special General elections.

At the Exit Conference, a Committee representative was given a list of the aforementioned contributions as well as photocopies of the schedules of receipts and expenditures used to determine the Committee's net debt position after each of the elections. A Committee spokesperson stated that the Committee believed it has a Primary debt and had requested the funds for the purpose of extinguishing its Primary debt. A Committee representative stated that the Committee would provide the Audit staff with copies of contracts to support their position that the Committee had outstanding debts as of the date of the Primary.

In the interim audit report, the Audit staff recommended that the Committee demonstrate that the contributions in question are permissible, by supplying documentation to support its positon that there was a primary debt or refund the contributions and submit evidence of such refunds.

In response to the interim audit report, the Committee submitted letters from the three political committees which redesignate the contributions to the special general election. The Audit staff recalculated the Committee's financial position as of November 8, 1988 (the date of the special general and general election) and determined that the Committee had special general election debts outstanding of $9,985.30. Therefore, the contributions are permissible. However, the letters are dated September 1990; therefore, the redesignations were not made on a timely basis.

Other materials submitted in response to the interim report were not sufficient to document that the Committee had outstanding debts as of the date of the primary election.

Recommendation

The Audit staff recommends that these matters be referred to the Office of General Counsel in accordance with the Commission approved Materiality Thresholds.

9304098242 2

Contributions Subject to 48-Hour Notification

Section 104.5(f) of Title 11 of the Code of Federal Regulations provides that if any contribution of $1,000 or more is received by an authorized committee of a candidate after the twentieth day, but more than 48 hours, before 12:01 A.M. on the day of the election, the principal campaign committee of that candidate shall notify the Commission, the Clerk of the House, the Secretary of the Senate and the Secretary of State, as appropriate, within 48 hours of receipt of the contribution. The notification shall be in writing and shall include the name of the candidate and office sought by the candidate, the identification of the contributor, and the date of receipt and the amount of the contribution. The notification shall be in addition to the reporting of these contributions on the post-election report.

A review of contributions subject to 48-hour notification revealed 8 contributions, totalling $27,000, which were deposited into the Committee's account within the time frame for 48-hour notification but for which no 48-hour notification was filed. According to the Committee, contributions were deposited on the day they were received.

At the Exit Conference, the Audit staff provided a schedule of the contributions for which 48-hour notification was not filed. A Committee spokesperson stated that the Committee was not aware of the need to file 48-hour notices until they were contacted by the Commission's Reports Analysis Division. From that point on, the Committee attempted to satisfy the requirements for 48-hour notification.

In the interim audit report, the Audit staff recommended that the Committee provide evidence to demonstrate that it did not violate Section 104.5(f) of Title 11 of the Code of Federal Regulations.

In response to the interim report, the Committee stated that, "this failure is apparently attributable to a lack of coordination...[O]ur Treasurer removed himself from the loop early in the process, and the Assistant Treasurer, Shelia Shipley, was not aware of the requirement until after the Primary election...."

Recommendation

The Audit staff recommends that this matter be referred to the Office of General Counsel in accordance with the Commission approved Materiality Threshold.

93040982423

SENSITIVE

RECEIVED
F.E.C.
SECRETARIAT
91 DEC 12 AM 11:44

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

FIRST GENERAL COUNSEL'S REPORT

MUR # 3422
Staff: Tonda M. Mott

SOURCE: INTERNALLY GENERATED

RESPONDENTS: Taylor for Congress
James W. Parris, as treasurer

RELEVANT STATUTES: 2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(f)
2 U.S.C. § 434(a)(6)

INTERNAL REPORTS CHECKED: 1988 October Quarterly
1988 Year End

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

On September 12, 1991, the Commission referred to the Office of the General Counsel four matters noted during an audit of the Taylor for Congress Committee (the "Committee"). The referral is based on audit findings involving excessive contributions and failure to file 48-hour notifications. Attachment 1.

II. FACTUAL AND LEGAL ANALYSIS

Taylor for Congress is the principal campaign committee of Dudley W. Taylor, a candidate in the 1988 election for the House of Representatives for the 2nd District of Tennessee. The candidate was involved in four separate elections, because of the sudden vacancy of the House seat for his district. He was simultaneously running in Special Primary and Special General elections to serve the remainder of the incumbent's term, as

93040982424

well as in the regular Primary and General elections for the next term. The Primary was held on August 4, 1988, and the Special Primary on August 25, 1988. The General and Special General elections were held on the same day, November 8, 1988. This unusual situation created some ambiguity concerning the designation of contributions.

After the completion of an audit, four matters were referred by the Audit Division to the Office of the General Counsel. Three of the matters referred concern contributions received in excess of the limitation. The first matter involves a $25,000 loan made to the Committee. The second matter involves apparent excessive contributions from three separate individuals. The third matter involves apparent excessive contributions by committees. The fourth matter involves contributions subject to the 48-hour notification requirement.

1. **Loan Contribution Received in Excess of the Limitation**

The Federal Election Campaign Act of 1971, as amended (the "Act"), limits the amount, to $1,000, that an individual may contribute to any candidate and his authorized committee with respect to any election. 2 U.S.C. § 441a(a). The Act also prohibits a candidate or political committee from accepting any contribution in violation of the Act. 2 U.S.C. § 441a(f). The Act defines "contribution" as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i) (emphasis added). A loan is considered a contribution, and a loan which exceeds the

9304098242 5

contribution limitations is unlawful whether or not it is repaid. 11 C.F.R. § 100.7(a)(1)(i). Further, the regulations state that "with respect to any election" means, in the case of a contribution designated in writing by the contributor for a particular election, the election so designated. 11 C.F.R. § 110.1(b)(2)(i).

On October 3, 1988, the Committee received a $25,000 check, signed by Jannie G. Taylor, the candidate's spouse. Attachment 2. The loan check was drawn on a joint checking account. The Committee repaid the loan in four installments. The last of the installments was paid on May 12, 1989. Attachment 3.

The Interim Audit Report recommended that the Committee provide any additional information or comments about the loan. According to the candidate, the check was intended to be a loan from the candidate to the Committee, rather than a contribution from his spouse. In response to the Interim Audit Report, the candidate stated that the "funds represented by this loan were funds earned by me and were loaned by me to my campaign. The only role that my wife served was that of an agent, in terms of endorsing and delivering the check drawn on our joint account at my request, at a time when I was out of town." Attachment 4, page 4. The Committee provided a signed statement to the Audit staff from Jannie G. Taylor to that effect. Attachment 5.

A candidate may obtain a loan which requires the signature of the candidate's spouse if jointly owned assets are used as collateral, and the spouse will not be considered a contributor

9304098242 6

to the campaign if the candidate's share of the property equals the amount of the loan. 11 C.F.R. § 100.7(a)(1)(i)(D). Further, a candidate may make unlimited expenditures from personal funds, including a portion of assets jointly held with his spouse. 11 C.F.R. § 110.10. However, a spouse may not contribute more than the $1,000 individual limitation.

The Commission's regulations make it clear that where a check is drawn on a joint checking account, the contribution is considered to be made by the person whose signature appears on the check. See 11 C.F.R. § 104.8(c). Moreover, 11 C.F.R. § 100.7(c) provides that a contribution made by an individual shall not be attributed to any other individual, unless otherwise specified by that individual in accordance with 11 C.F.R. § 110.1(k). To be considered a contribution by more than one person, section 110.1(k)(1) requires the signature of each contributor on the instrument or in a separate writing.

This transaction was an excessive contribution from the candidate's spouse in violation of 2 U.S.C. § 441a(a). The regulations would have permitted the candidate to loan funds to the Committee from his joint bank account, or cosign a loan with his wife using jointly held assets as collateral. They do not permit his wife to loan money to the campaign on her husband's behalf in excess of her individual contribution limitation. Since Mrs. Taylor's signature is the only one on the loan check, the loan must be considered a contribution from her, which

9304098242 7

exceeds her individual contribution limitation by $23,000.[1]

The Final Audit Report concluded that the violation "resulted in no real advantage to the Committee."

Therefore, the Office of the General Counsel recommends that the Commission find reason to believe that Mrs. Jannie Taylor violated 2 U.S.C. § 441a(a)(1)(A) and that the Committee violated 2 U.S.C. § 441a(f) by knowingly accepting such funds. This Office further recommends that the Commission take no further action with respect to Mrs. Jannie Taylor and the Committee. This Office further recommends that the Commission close the file as it pertains to Mrs. Jannie Taylor.

2. **Excessive Contributions Received From Individuals**

The Act and regulations provide that no individual shall make contributions to any candidate or his authorized committees with respect to any election for federal office that, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A); 11 C.F.R. § 110.1(b)(1). This limitation applies separately with respect

---

1. The Special General and General election were on the same date; thus, the Committee could have designated $1000 of this contribution to each election without seeking a redesignation from Mrs. Taylor. See Advisory Opinion ("AO") 1986-31. As Mrs. Taylor made no other contributions to her husband's campaign, she exceeded the limit by $23,000.

9304098242 8

to each election. 2 U.S.C. § 441a(a)(6); 11 C.F.R. § 110.1(j)(1). The Act and regulations further provide that no candidate or political committee shall knowingly accept a contribution in violation of these provisions. 2 U.S.C. § 441a(f); 11 C.F.R. § 110.9(a).

The Audit referral indicates that the Committee apparently received excessive contributions, totaling $4,500, from three individuals. The first individual, Wade Till, apparently made three contributions, written on joint accounts. Only Wade Till's signature appeared on all three checks, and no further indications were made. One of the checks, in the amount of $1,250, was dated September 13, 1988. Attachment 6. The other two were dated October 4 and 29, 1988, and were for the amounts of $750 and $1,000, respectively. Attachment 6. As no designation was indicated on the checks, and the General and Special General were to occur simultaneously as the next election following the contributions, the Committee could designate $1,000 to each election.[2] On September 24, 1990, Wade and Rebecca Till reattributed the remaining $1,000 to Mrs. Till. Attachment 9, p. 1. The reattribution was not made within the sixty (60) days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Till was excessive in the amount of $1,000.

---

2. Since the Special General and General elections were on the same date and both were the "next" election, the Committee could have designated any amount not to exceed $1000 of the undesignated contributions to each election without seeking a redesignation from the individual. See Advisory Opinion ("AO") 1986-31.

9304098242 9

The second individual, James Rogers Carroll, made three contributions to the Committee, all drawn on a single-signatory account. There was no indication that the contributions represented a contribution from someone other than the individual who signed the check. The dates and amounts of those contributions were: July 18, 1988 for $500; September 13, 1988 for $1,000; and October 17, 1988 for $1,500. Attachment 7. Again, as no designation was indicated on the checks, the Committee could attribute the contributions to the next election. Thus, the July contribution would be attributed to the Primary election, it being the next election. The General and Special General were to occur simultaneously as the next election following the September and October contributions; thus, the Committee could designate $1,000 to each election. On September 21, 1990, James and Dorothy Carroll reattributed the remaining $500 to Mrs. Carroll. Attachment 9, p. 2. This reattribution was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Carroll was excessive in the amount of $500.

The third individual, Jimmy C. Davis, also contributed three checks which were not drawn on joint accounts. Attachment 8. Two checks were dated July 18, 1988. One check was not dated. Each of these checks was annotated with the name of a different individual, single contributor (e.g. "for Virginia Lois Davis"); however, only Jimmy C. Davis' signature appeared on the checks, and no further signatures were attached in a separate writing. One check, noted as a contribution by

9304098243 0

Jimmy Anthony Davis, was in the amount of $1,000. The other two checks, noted as contributions by Jim Davis and Virginia Lois Davis, were in the amount of $2,000 each. Indications also appeared on the checks that the contributions were for the Primary and General elections. As Jimmy C. Davis was the only signatory, and the contributions were designated by the contributor for the primary and general elections, $2,000 of the contributions was proper. On September 21, 1990, Jimmy C. and Lois Davis reattributed to the Special Primary and Special General elections, and redesignated to Mrs. Davis, the remaining $3,000. Attachment 9, p. 3. This reattribution and redesignation was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Jimmy C. Davis was excessive in the amount of $3,000.

At the Exit Conference, a Committee representative stated that these contributions were intended to be from relatives of the individuals who made the contributions despite the signatures on the checks. In response to the Interim Audit Report, the Committee provided letters from the contributors which authorize reattribution of the excessive portions to the contributors' spouses. Attachment 9.

The reattributions and redesignations were not documented within sixty days after the Committee's receipt of the contribution as required by 11 C.F.R. § 110.1(k)(3)(ii)(B).

9304098243 1

Therefore, this Office makes no recommendation to the Commission regarding the contributions by Wade Till and James Carroll.

However, the excessive contribution by Jimmy C. Davis was substantial, in that his designated contributions exceeded his contribution limits by $3,000. This Office recommends that the Commission find reason to believe that Jimmy C. Davis violated 2 U.S.C. § 441a(a)(1)(A).

This Office further recommends that the Commission find reason to believe that the Taylor for Congress and James W. Parris, as treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting such excessive contributions.

3. **Excessive Contributions Received From Committees**

a. **Majority Congress Committee**

The Audit staff noted an apparent excessive contribution from a multicandidate committee. The Majority Congress Committee made two contributions to the Committee. One contribution of $5,000 was dated September 27, 1988, and designated "general." The second contribution totaled $2,000 and was dated November 1, 1988. The second contribution was also designated "general," but the Committee reported the second contribution as attributable to "Sp. General," the Special General election held on November 8, 1988.

The Committee told Audit staff during the exit conference that the second contribution was intended for the Special General election. Apparently, a representative of the Majority Congress Committee discussed the second contribution in a

9304098243 2

telephone conversation with a Committee representative. In response to the Interim Audit Report, the Committee submitted a letter, dated October 31, 1990, from the Majority Congress Committee, redesignating its $2,000 contribution of November 1, 1988 to the Special General election. Attachment 10.

The contribution limitation for a multicandidate committee is $5,000. 2 U.S.C. § 441a(a)(2)(A). The regulations require that a committee obtain a written redesignation of a contribution if it exceeds the contributor's limitation or is made after the date of the election for which it is designated, in order to designate the contribution for a different election. 11 C.F.R. § 110.2. However, the situation here is unusual since both the Special General and the General election occurred on the same day. The regulations provide that where a contribution is not designated for a particular election, the contribution shall be designated for the next election. 11 C.F.R. § 110.1(b)(2)(ii). Both elections occurred simultaneously; thus, they are both the next election.

The Commission addressed a similar situation in AO 1986-31 (Contribution limitations for simultaneous General and Special General election).[3] In that case, the General and Special elections for the 1986 North Carolina Senate occurred simultaneously. The Commission determined that in these circumstances the "[C]ommittee may treat undesignated

---

3. We note that section 110.1 has been revised since the date of the AO. However, the revisions to the regulation do not appear to change the basis for the opinion.

9304098243 3

contributions which are otherwise lawful as made with respect to either election or both electons." AO 1986-31. The Commission stated that "[t]he Committee may allocate a portion of an undesignated contribution to the regular election and another portion to the special election as long as such allocation does not result in the contributor's exceeding his or her (or its) aggregate contribution limitations for both elections." Id. Further, the Commission stated that the "committee need not seek redesignations from the contributors in this special circumstance." Id.

Since the Special General and General elections were simultaneous, the Majority Congress Committee's limitation for the two elections was $10,000. The two contributions at issue here total $7,000. If the contributions had not been designated, they would not be excessive, because the Committee could have attributed the $2,000 in excess of the Majority Congress Committee's limitation for the General election to the Special General election without obtaining a reattribution. See AO 1986-31. Thus, the designation of "General" on the checks was ambiguous under the circumstances. The Majority Congress Committee has submitted a redesignation letter which clarifies that the November 1, 1988 contribution was for the Special General Election.

Therefore, the Office of the General Counsel makes no recommendation with respect to the Majority Congress Committee contributions.

9304098243 4

b. **Excessive Contributions for Retirement of Debt**

2 U.S.C. § 434(b)(8) requires that committees keep accurate records of "the amount and nature of outstanding debts and obligations owed by or to such political committees." Committees may accept contributions designated in writing for a particular election, but which are made after the designated election. 11 C.F.R. § 110.1(b)(3)(i). However, such contributions can not exceed the net debts outstanding from the designated election. Id. To the extent that the contributions do exceed the net debt outstanding, the committee can redesignate the contributions to another election; however, the redesignation must be done within sixty days from receipt of the contributions. 11 C.F.R. § 110.1(b)(3)(i)(B).

According to the audit, the Committee received excessive contributions totaling $7,400 from three political committees. All of the contributions were made for the purpose of retiring debt that the Committee believed it had from the primary election. Attachment 5, Page 5. However, the contributions were made after the primary.

The Tennessee Democratic Party made a $5,000 contribution on November 1, 1988. Audit determined that $1,100 of that amount could be applied to the General Election because the contributor still had that amount remaining for its limit to the General election, which was the next election following the contribution. Thus, the contribution was excessive by $3,900.

The United Steelworkers of America PAC contributed $2,500 on November 2, 1988. On February 24, 1989, a $1,000

9304098243 5

contribution was made by Drive Political Action Committee. Both of these Committees had already made a maximum contribution to the General election. Therefore, the entire contribution for each, $2,500 for the United Steelworkers of America PAC and $1,000 for the Drive PAC, was excessive.

Audit initially determined that "the Committee had no net debts outstanding as of the dates of the Primary, Special Primary, and Special General elections." See Attachment 13, p. 8. The Committee contended that it believed it had a primary debt, and submitted documentation to demonstrate that there was a primary debt. Based on the documentation submitted by the Committee, the Audit Staff determined, in a December 17, 1990 memorandum to this office regarding the final audit report, that the Committee had primary debt in the amount of $11,475.22. Attachment 13, p. 8. Subsequently, in the Final Audit Report, Audit staff recalculated the Committee's financial position as of November 8, 1988 (the date of the special general election), and determined that there was no primary debt, but that there was special general election debt in the amount of $9,985.30. Attachment 1, p. 10.

The Committee submitted letters from the three political committees, redesignating the contributions to the special general election. Attachment 11. The redesignations, dated September 1990, were untimely. However, the Committee maintains that it had Primary debt. Attachment 4, pp. 5-6.

The Committee received the contributions from the political committees with the belief that it had Primary debt. Further,

9304098243 6

there appears to be disagreement between the Committee and Audit, and uncertainty as shown by the recalculations by Audit, regarding whether debt should have been attributed to the Primary or Special General election. Therefore, the contributors were justified in relying on the Committee's belief that Primary debt existed.

Therefore, this Office makes no recommendation in regard to the Tennessee Democratic Party, United Steelworkers of America PAC, and Drive Political Fund. However, this Office recommends that the Commission find reason to believe that the Taylor for Congress Committee and James W. Parris, as treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting such excessive contributions.

4. **Contributions Subject To 48-Hour Notification**

The Act requires principal campaign committees of candidates for federal office to notify in writing either the Secretary of the Senate, the Clerk of the U.S. House of Representatives or the Commission, as appropriate, and the Secretary of State, of each contribution totaling $1,000 or more, received by any authorized committee of the candidate after the 20th day but more than 48 hours before any election. 2 U.S.C. § 434(a)(6)(A). The Act further requires notification to be made within 48 hours after the receipt of the contribution and to include the name of the candidate and office sought, the date of receipt, the amount of the contribution, and the

9304098243 7

identification of the contributor. Id. The notification of these contributions shall be in addition to all other reporting requirements. 2 U.S.C. § 434(a)(6)(B).

The Primary was held on August 4, 1988, and the Special Primary on August 25, 1988. The General and Special General elections were both held on November 8, 1988. Pursuant to the Act, the Respondents were required to notify the Commission, in writing, of all contributions of $1,000 or more received from July 15, 1988 through August 1, 1988, from August 5, 1988 through August 22, 1988, and from October 19, 1988 through November 5, 1988, within 48 hours of their receipt.

The Audit staff's review of contributions revealed eight contributions, which were subject to the 48-hour notification rule of 11 C.F.R. § 104.5(f). Attachment 12. These contributions, totaling $27,000, were deposited into the Committee's account, but no 48-hour notification was filed with the Commission. The Committee spokesman stated that the Committee had been unaware of the 48-hour notification rule until it was contacted by the Reports Analysis Division. From that point on, the Committee attempted to file the notifications. The Interim Audit Report recommended that the Committee provide evidence to demonstrate that it did not violate 11 C.F.R. § 104.5(f).

In response to the Interim Audit Report, the Committee stated that $20,000 was a loan from the candidate to his campaign. The remaining $7,000 derived from seven different individuals, each with a $1,000 contribution. Attachment 12.

9304098243 8

The Committee explained that its Treasurer had "removed himself from the loop early in the process, and the Assistant Treasurer, Sheila Shipley, was not aware of this requirement until after the Primary election, when she was notified as to this responsibility. She then apparently filed the appropriate notices for the General elections until her hospitalization for emergency surgery, and at that time, she was unaware that I was planning to make a loan." Attachment 4, Page 6.

The Act and Regulation clearly provide that a committee must report all contributions of $1,000 or more which are received after the 20th day, but more than 48 hours before 12:01 A.M. of the day of the election, within 48 hours of receipt of the contribution. 2 U.S.C. § 434(a)(6); 11 C.F.R. § 104.5 (f).

Therefore, this Office recommends that the Commission find reason to believe that the Respondents violated 2 U.S.C. § 434(a)(6).

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

9304098243 9

93040982440

IV. RECOMMENDATIONS

1. Find reason to believe that Mrs. Jannie Taylor violated 2 U.S.C. § 441a(a)(1)(A), but take no further action and close the file as it pertains to Mrs. Taylor.

2. Find reason to believe that Taylor for Congress Committee and James W. Parris, as treasurer, violated 2 U.S.C. § 441a(f), by accepting an excessive contribution from Mrs. Jannie Taylor, but take no further action with regard to this transaction.

3. Find reason to believe that Jimmy C. Davis violated 2 U.S.C. § 441a(a)(1)(A).

4. Find reason to believe that Taylor for Congress Committee and James W. Parris, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

5. Approve the appropriate letters, the attached Factual and Legal Analyses, and the attached conciliation agreements.

Lawrence M. Noble
General Counsel

Date 12/12/91 BY: [signature]
Lois G. Lerner
Associate General Counsel

Attachments (18)
1. Referral
2. Check signed by Jannie Taylor
3. Loan repayment
4. Response
5. Signed statement by Jannie Taylor
6. Contribution checks of Wade Till
7. Contribution checks of James Carroll
8. Contribution checks of Jimmy Davis
9. Reattribution letters of individual contributors
10. Reattribution letter of Majority Congress Committee
11. Reattribution letters of debt relief contributors
12. Schedule of 48-hour violations
13. Audit report of December 17, 1990
14. Proposed Factual and Legal Analysis (Taylor for Congress)
15. Proposed Factual and Legal Analysis (Jannie Taylor)
16. Proposed Factual and Legal Analysis (Jimmy C. Davis)
17. Proposed Conciliation Agreement (Taylor for Congress)
18. Proposed Conciliation Agreement (Jimmy C. Davis)

93040982441

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Taylor for Congress;	)	MUR 3422
James W. Parris, as treasurer.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on December 16, 1991, the Commission decided by a vote of 5-0 to take the following actions in MUR 3422:

1. Find reason to believe that Mrs. Jannie Taylor violated 2 U.S.C. § 441a(a)(1)(A), but take no further action and close the file as it pertains to Mrs. Taylor.

2. Find reason to believe that Taylor for Congress Committee and James W. Parris, as treasurer, violated 2 U.S.C. § 441a(f), by accepting an excessive contribution from Mrs. Jannie Taylor, but take no further action with regard to this transaction.

3. Find reason to believe that Jimmy C. Davis violated 2 U.S.C. 441a(a)(1)(A).

4. Find reason to believe that Taylor for Congress Committee and James W. Parris, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

93040982442

(Continued)

5. Approve the appropriate letters, Factual and Legal Analyses, and the conciliation agreements, as recommended in the General Counsel's Report dated December 12, 1991.

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

Attest:

12-16-91
Date

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

Received in the Secretariat: Thurs., Dec. 12, 1991 11:44 a.m.
Circulated to the Commission: Thurs., Dec. 12, 1991 4:00 p.m.
Deadline for vote: Mon., Dec. 16, 1991 4:00 p.m.

dr

9304098244 3

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 7, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James W. Parris, Treasurer
Taylor for Congress
P.O. Box 51992
Knoxville, Tennessee 37950

RE: MUR 3422
Taylor for Congress;
James W. Parris, as treasurer

Dear Mr. Parris:

On December 16, 1991, the Federal Election Commission found that there is reason to believe Taylor for Congress ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

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.

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

93040982444

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 Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

9304098245

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Taylor for Congress and James W. Parris, as treasurer **MUR:** # 3422

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

1. Loan Contribution Received in Excess of the Limitation

The Federal Election Campaign Act of 1971, as amended (the "Act"), limits the amount, to $1,000, that an individual may contribute to any candidate and his authorized committee with respect to any election. 2 U.S.C. § 441a(a). The Act prohibits a candidate or political committee from accepting any contribution in violation of the Act. 2 U.S.C. § 441a(f). The Act defines "contribution" as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). A loan is considered a contribution, and a loan which exceeds the contribution limitations is unlawful whether or not it is repaid. 11 C.F.R. § 100.7(a)(1)(i). Further, the regulations state that "with respect to any election" means, where a contribution designated in writing by the contributor for a particular election, the

93040982446

election so designated. 11 C.F.R. § 110.1(b)(2)(i).

On October 3, 1988, the Committee received a $25,000 check, signed by Jannie G. Taylor, the candidate's spouse. The loan check was drawn on a joint checking account. The Committee repaid the loan in four installments, with the last installment paid on May 12, 1989.

Audit recommended that the Committee provide any additional information or comments about the loan. According to the candidate, the check was intended to be a loan from the candidate to the Committee, rather than a contribution from his spouse. The candidate stated that the "funds represented by this loan were funds earned by me and were loaned by me to my campaign. The only role that my wife served was that of an agent, in terms of endorsing and delivering the check drawn on our joint account at my request, at a time when I was out of town." The Committee provided a signed statement to the Audit from Jannie G. Taylor to that effect.

A candidate may obtain a loan which requires the signature of the candidate's spouse if jointly owned assets are used as collateral, and the spouse will not be considered a contributor to the campaign if the candidate's share of the property equals the amount of the loan. 11 C.F.R. § 100.7(a)(1)(i)(D). Further, a candidate may make unlimited expenditures from personal funds, including a portion of assets jointly held with his spouse. 11 C.F.R. § 110.10. However, a spouse may not contribute more than the $1,000 individual limitation.

The Commission's regulations make it clear that where a

9304098244 7

check is drawn on a joint checking account, the contribution is considered to be made by the person whose signature appears on the check. See 11 C.F.R. § 104.8(c). Moreover, 11 C.F.R. § 100.7(c) provides that a contribution made by an individual shall not be attributed to any other individual, unless otherwise specified by that individual in accordance with 11 C.F.R. § 110.1(k). To be considered a contribution by more than one person, section 110.1(k)(1) requires the signature of each contributor on the instrument or in a separate writing.

This transaction was an excessive contribution from the candidate's spouse in violation of 2 U.S.C. § 441a(a). The regulations would have permitted the candidate to loan funds to the Committee from his joint bank account, or cosign a loan with his wife using jointly held assets as collateral. They do not permit his wife to loan money to the campaign on her husband's behalf in excess of her individual contribution limitation. Since Mrs. Taylor's signature is the only one on the loan check, the loan must be considered a contribution from her, which exceeds her individual contribution limitation by $23,000.

Therefore, there is reason to believe that the Committee violated 2 U.S.C. § 441a(f).

2. **Excessive Contributions Received From Individuals**

The Act provides that no individual shall make contributions to any candidate or his authorized committees with respect to any election for federal office that, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). This limitation applies separately with respect to each election.

93040982448

2 U.S.C. § 441a(a)(6). The Act further provides that no candidate or political committee shall knowingly accept a contribution in violation of these provisions. 2 U.S.C. § 441a(f).

The Committee received excessive contributions, totaling $4,500, from three individuals. The first individual, Wade Till, made three contributions, written on joint accounts. Only Wade Till's signature appeared on all three checks, and no further indications were made. One of the checks, in the amount of $1,250, was dated September 13, 1988. The other two were dated October 4 and 29, 1988, and were for the amounts of $750 and $1,000, respectively. As no designation was indicated on the checks, and the General and Special General were to occur simultaneously as the next election following the contributions, the Committee could designate $1,000 to each election. On September 24, 1990, Wade and Rebecca Till reattributed the remaining $1,000 to Mrs. Till. The reattribution was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Till was excessive in the amount of $1,000.

The second individual, James Rogers Carroll, made three contributions to the Committee, all drawn on a single-signatory account. There was no indication that the contributions represented a contribution from someone other than the individual who signed the check. The dates and amounts of those contributions were: July 18, 1988 for $500; September 13, 1988 for $1,000; and October 17, 1988 for $1,500. As no designation

9304098249

was indicated on the checks, the Committee could attribute the contributions to the next election. Thus, the July contribution would be attributed to the Primary election, it being the next election. The General and Special General were to occur simultaneously as the next election following the September and October contributions; thus, the Committee could designate $1,000 to each election. On September 21, 1990, James and Dorothy Carroll reattributed the remaining $500 to Mrs. Carroll. This reattribution was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Carroll was excessive in the amount of $500.

The third individual, Jimmy C. Davis, contributed three checks which were not drawn on joint accounts. Two checks were dated July 18, 1988. One check was not dated. Each check was annotated with the name of a different individual, single contributor (e.g. "for Virginia Lois Davis"); however, only Jimmy C. Davis' signature appeared on the checks, and no further signatures were attached in a separate writing. One check, noted as a contribution by Jimmy Anthony Davis, was in the amount of $1,000. The other two checks, noted as contributions by Jim Davis and Virginia Lois Davis, were in the amount of $2,000 each. Indications also appeared on the checks that the contributions were for the Primary and General elections.

As Jimmy C. Davis was the only signatory, and the contributions were designated by the contributor for the primary and general elections, $2,000 of the contributions was proper. On September 21, 1990 Jimmy C. and Lois Davis reattributed to

9304098245 0

the Special Primary and Special General elections, and redesignated to Mrs. Davis, the remaining $3,000. This reattribution and redesignation was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Davis was excessive in the amount of $3,000.

Therefore, there is reason to believe that the Taylor for Congress and James W. Parris, as treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting such contributions.

3. Excessive Contributions for Retirement of Debt

2 U.S.C. § 434(b)(8) requires that committees keep accurate records of "the amount and nature of outstanding debts and obligations owed by or to such political committees." Committees may accept contributions designated in writing for a particular election, but which are made after the designated election. 11 C.F.R. § 110.1(b)(3)(i). However, such contributions can not exceed the net debts outstanding from the designated election. To the extent that the contributions do exceed the net debt outstanding, the committee can redesignate the contributions to another election; however, the redesignation must be done within sixty days from receipt of the contributions. 11 C.F.R. § 110.1(b)(3)(i)(B).

According to Audit, the Committee received excessive contributions totaling $7,400 from three political committees. These contributions were made for the purpose of retiring debt that the Committee believed it had from the primary election. However, the contributions were made after the primary.

9304098245 1

The Tennessee Democratic Party made a $5,000 contribution on November 1, 1988. Audit determined that $1,100 of that amount could be applied to the General Election because the contributor still had that amount remaining for its limit to the General election, which was the next election following the contribution. Thus, the contribution was excessive by $3,900.

The United Steelworkers of America PAC contributed $2,500 on November 2, 1988. On February 24, 1989, a $1,000 contribution was made by Drive Political Action Committee. Both Committees had already made maximum contributions to the General election. Thus, the entire contribution for each was excessive.

Audit initially determined that the Committee had no net debts outstanding as of the dates of the Primary, Special Primary, and Special General elections. The Committee contended that it believed it had a primary debt, and submitted documentation to demonstrate that there was a primary debt. Based on the documentation submitted by the Committee, Audit recalculated the Committee's financial position as of November 8, 1988 (the date of the special general election), and determined that there was no primary debt, but that there was special general election debt in the amount of $9,985.30.

The Committee submitted letters from the three political committees, redesignating the contributions to the special general election. The redesignations, dated September 1990, were untimely. Therefore, there is reason to believe that the Taylor for Congress Committee and James W. Parris, as treasurer, violated 2 U.S.C. § 441a(f).

9304098245 2

4. Contributions Subject To 48-Hour Notification

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

The Primary was held on August 4, 1988, and the Special Primary on August 25, 1988. The General and Special General elections were both held on November 8, 1988. Pursuant to the Act, the Respondents were required to notify the Commission, in writing, of all contributions of $1,000 or more received from July 15, 1988 through August 1, 1988, from August 5, 1988 through August 22, 1988, and from October 19, 1988 through November 5, 1988, within 48 hours of their receipt.

The Audit review of contributions revealed that eight contributions, subject to the 48-hour notification rule of 11 C.F.R. § 104.5(f). These contributions, totaling $27,000, were deposited into the Committee's account, but no 48-hour

93040982453

notification was filed with the Commission. The Committee spokesman stated that the Committee had been unaware of the 48-hour notification rule. After notice of such requirement, the Committee attempted to file the notifications. Audit recommended that the Committee provide evidence to demonstrate that it did not violate 11 C.F.R. § 104.5(f).

In response, the Committee stated that $20,000 was a loan from the candidate to his campaign. The remaining $7,000 derived from seven different individuals, each with a $1,000 contribution. The Committee explained that its Treasurer had "removed himself from the loop early in the process, and the Assistant Treasurer, Sheila Shipley, was not aware of this requirement until after the Primary election, when she was notified as to this responsibility. She then apparently filed the appropriate notices for the General elections until her hospitalization for emergency surgery, and at that time, she was unaware that I was planning to make a loan."

The Act clearly provides that a committee must report all contributions of $1000 or more which are received after the 20th day, but more than 48 hours before 12:01 A.M. of the day of the election, within 48 hours of receipt of the contribution. 2 U.S.C. § 434(a)(6). Therefore, there is reason to believe that the Respondents violated 2 U.S.C. § 434(a)(6).

9304098245 4

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 7, 1992

Jannie G. Taylor
Dyer and Taylor
P.O. Box 835
Suite 1000
Andrew Johnson Office Plaza
912 South Gay Street
Knoxville, Tennessee 37901

RE: MUR 3422
Jannie G. Taylor

Dear Ms. Taylor:

On December 16, 1991, the Federal Election Commission found reason to believe that you violated 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("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 you. The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

The Commission reminds you that the Act limits the amount, to $1,000, that an individual may contribute to any candidate or his authorized committee with respect to any election. Further, any contribution is considered to be made by the person whose signature appears on the check. The check signed by you on October 3, 1988 appears to be a violation of the Act. You 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 after this matter has been closed with respect to all other respondents involved. 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.

The confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

93040982455

If you have any questions, please direct them to Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosure
Factual and Legal Analysis

9304098245 6

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Jannie Taylor MUR: 3422

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

The Federal Election Campaign Act of 1971, as amended (the "Act"), limits the amount, to $1,000, that an individual may contribute to any candidate and his authorized committee with respect to any election. 2 U.S.C. § 441a(a). The Act defines "contribution" as "any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of influencing any election for Federal office." 2 U.S.C. § 431(8)(A)(i). A loan is considered a contribution, and a loan which exceeds the contribution limitations is unlawful whether or not it is repaid. 11 C.F.R. § 100.7(a)(1)(i). Further, the regulations state that "with respect to any election" means, where a contribution designated in writing by the contributor for a particular election, the election so designated. 11 C.F.R. § 110.1(b)(2)(i).

On October 3, 1988, the Committee received a $25,000 check, signed by Jannie G. Taylor, the candidate's spouse. The loan check was drawn on a joint checking account. The Committee

9304098245 7

repaid the loan in four installments, with the last installment paid on May 12, 1989.

Audit recommended that the Committee provide any additional information or comments about the loan. According to the candidate, the check was intended to be a loan from the candidate to the Committee, rather than a contribution from his spouse. The candidate stated that the "funds represented by this loan were funds earned by me and were loaned by me to my campaign. The only role that my wife served was that of an agent, in terms of endorsing and delivering the check drawn on our joint account at my request, at a time when I was out of town." The Committee provided a signed statement to the Audit from Jannie G. Taylor to that effect.

A candidate may obtain a loan which requires the signature of the candidate's spouse if jointly owned assets are used as collateral, and the spouse will not be considered a contributor to the campaign if the candidate's share of the property equals the amount of the loan. 11 C.F.R. § 100.7(a)(1)(i)(D). Further, a candidate may make unlimited expenditures from personal funds, including a portion of assets jointly held with his spouse. 11 C.F.R. § 110.10. However, a spouse may not contribute more than the $1,000 individual limitation.

The Commission's regulations make it clear that where a check is drawn on a joint checking account, the contribution is considered to be made by the person whose signature appears on the check. See 11 C.F.R. § 104.8(c). Moreover, 11 C.F.R. § 100.7(c) provides that a contribution made by an individual

9304098245 8

shall not be attributed to any other individual, unless otherwise specified by that individual in accordance with 11 C.F.R. § 110.1(k). To be considered a contribution by more than one person, section 110.1(k)(1) requires the signature of each contributor on the instrument or in a separate writing.

This transaction was an excessive contribution from the candidate's spouse in violation of 2 U.S.C. § 441a(a). The regulations would have permitted the candidate to loan funds to the Committee from his joint bank account, or cosign a loan with his wife using jointly held assets as collateral. They do not permit his wife to loan money to the campaign on her husband's behalf in excess of her individual contribution limitation. Since Mrs. Taylor's signature is the only one on the loan check, the loan must be considered a contribution from her, which exceeds her individual contribution limitation by $23,000.

Therefore, there is reason to believe that Mrs. Jannie Taylor violated 2 U.S.C. § 441a(a)(1)(A).

9304098245 9

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

January 7, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Jimmy C. Davis
Route 1, Box 281
Smithville, Tennessee 37166

RE: MUR 3422
Jimmy C. Davis

Dear Mr. Davis:

On December 16, 1991, the Federal Election Commission found that there is reason to believe you violated 2 U.S.C. § 441(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Factual and Legal Analysis, which formed a basis for the Commission's finding, is attached for your information.

Under the Act, you have an opportunity to demonstrate that no action should be taken against you. You may submit any factual or legal materials 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 you, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation.

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

If you are interested in expediting the resolution of this matter by pursuing preprobable cause conciliation and if you agree with the provisions of the enclosed agreement, please sign

93040982460

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 Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

93040982461

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Jimmy C. Davis **MUR:** 3422

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

The Act provides that no individual shall make contributions to any candidate or his authorized committees with respect to any election for federal office that, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). This limitation applies separately with respect to each election. 2 U.S.C. § 441a(a)(6).

The Commission's regulations make it clear that where a check is drawn on a joint checking account, the contribution is considered to be made by the person whose signature appears on the check. See 11 C.F.R. § 104.8(c). Moreover, 11 C.F.R. § 100.7(c) provides that a contribution made by an individual shall not be attributed to any other individual, unless otherwise specified by that individual in accordance with 11 C.F.R. § 110.1(k). To be considered a contribution by more than one person, section 110.1(k)(1) requires the signature of each contributor on the instrument or in a separate writing.

9304098246 2

Jimmy C. Davis contributed three checks which were not drawn on joint accounts. Two checks were dated July 18, 1988. One check was not dated. Each of these checks was annotated with the name of a different individual, single contributor (e.g. "for Virginia Lois Davis"); however, only Jimmy C. Davis' signature appeared on the checks, and no further signatures were attached in a separate writing. One check, noted as a contribution by Jimmy Anthony Davis, was in the amount of $1,000. The other two checks, noted as contributions by Jim Davis and Virginia Lois Davis, were in the amount of $2,000 each. Indications also appeared on the checks that the contributions were for the Primary and General elections.

As Jimmy C. Davis was the only signatory, and the contributions were designated by the contributor for the primary and general elections, $2,000 of the contributions was proper. On September 21, 1990 Jimmy C. and Lois Davis reattributed to the Special Primary and Special General elections, and redesignated to Mrs. Davis, the remaining $3,000. This reattribution and redesignation was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Davis was excessive in the amount of $3,000.

Therefore, there is reason to believe that Jimmy C. Davis violated 2 U.S.C. § 441a(a)(1)(A).

93040982463

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

January 21, 1992

FACSIMILE

Jimmy C. Davis
Route 1, Box 281
Smithville, Tennessee 37166

RE: MUR 3422
Jimmy C. Davis

Dear Mr. Davis:

This is in response to our telephone conversation on January 21, 1992, in which you requested a copy of your contribution checks to the Taylor for Congress Committee. Enclosed please find a copy of the requested documents from which the Commission concluded their finding of reason to believe you violated 2 U.S.C. § 441a(a)(1)(A).

If you have any further questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Staff Attorney

Enclosure

93040982464

JIMMY C. DAVIS 3-83 For Jimmy Anthony Davis 1910

DAVIS D FARMS
PH. 615-597-7369 OFFICE 615-597-6256
ROUTE 1, BOX 281
SMITHVILLE, TN 37166

7/18/ 88 07-756/641

PAY TO THE ORDER OF Committee to elect Dudley Taylor $ 1,000.00

one thousand and 00/100 DOLLARS

DEKALB COUNTY BANK

DAVIS D FARMS
JIMMY C. DAVIS

FOR Congress election

⑈001812⑈ ⑆064107664⑆ 234 818 7⑈

JIMMY C. DAVIS 3-83 For Jim Davis 1910

DAVIS D FARMS
PH. 615-597-7369 OFFICE 615-597-6256
ROUTE 1, BOX 281
SMITHVILLE, TN 37166

7/18/ 88 07-756/641

PAY TO THE ORDER OF Committee to elect Dudley Taylor to Congress $ 2,000.00

Two thousand and 00/100 DOLLARS

DEKALB COUNTY BANK

DAVIS D FARMS
JIMMY C. DAVIS

FOR Primary and General election

⑈001810⑈ ⑆064107664⑆ 234 818 7⑈

JIMMY C. DAVIS 3-83 For Virginia Lois Davis 1911

DAVIS D FARMS
PH. 615-597-7369 OFFICE 615-597-6256
ROUTE 1, BOX 281
SMITHVILLE, TN 37166

07-756/641

PAY TO THE ORDER OF Committee to elect Dudley Taylor to Congress $ 2,000.00

Two thousand and 00/100 DOLLARS

DEKALB COUNTY BANK

DAVIS D FARMS
JIMMY C. DAVIS

FOR Primary and General election

⑈001811⑈ ⑆064107664⑆ 234 818 7⑈

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 10, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James W. Parris, Treasurer
Taylor for Congress
P.O. Box 51992
Knoxville, Tennessee 37950

RE: MUR 3422
Taylor for Congress
James W. Parris, as treasurer

Dear Mr. Parris:

On January 7, 1992, you were notified that the Federal Election Commission determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. On that same date you were sent a conciliation agreement offered by the Commission in settlement of this matter.

Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. To date, you have not responded to the proposed agreement. The 30 day period for negotiations will soon expire. Unless we receive a response from you within five days, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

Should you have any questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Staff Attorney

9304098246 6

RECEIVED
F.E.C.
SECRETARIAT
92 FEB 6 AM 11:12

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of Jimmy C. Davis	)))	MUR 3422

SENSITIVE

GENERAL COUNSEL'S REPORT

I. BACKGROUND

Attached is a conciliation agreement which has been signed by Jimmy C. Davis.

The attached agreement contains no changes from the agreement approved by the Commission on December 16, 1991. A check, in the amount of $750, for the civil penalty was received along with the signed conciliation agreement.

II. RECOMMENDATIONS

1. Accept the attached conciliation agreement with Jimmy C. Davis.

2. Close the file as to this respondent.

3. Approve the appropriate letter.

Lawrence M. Noble
General Counsel

Date 2/5/92

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. Conciliation Agreement
2. Photocopy of civil penalty check

Staff Assigned: Tonda M. Mott

93040982467

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Jimmy C. Davis.) MUR 3422

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on February 10, 1992, the Commission decided by a vote of 4-0 to take the following actions in MUR 3422:

1. Accept the conciliation agreement with Jimmy C. Davis, as recommended in the General Counsel's Report dated February 5, 1992.

2. Close the file as to this respondent.

3. Approve the appropriate letter, as recommended in the General Counsel's Report dated February 5, 1992.

Commissioners Aikens, Elliott, Potter and Thomas voted affirmatively for the decision; Commissioners McDonald and McGarry did not cast votes.

Attest:

2-10-92
Date

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

Received in the Secretariat: Thurs., Feb. 6, 1992 11:12 a.m.
Circulated to the Commission: Thurs., Feb. 6, 1992 4:00 p.m.
Deadline for vote: Mon., Feb. 10, 1992 4:00 p.m.

dr

93040982468

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 12, 1992

Jimmy C. Davis
Route 1, Box 281
Smithville, Tennessee 37166

RE: MUR 3422

Dear Mr. Davis:

On February 10, 1992, the Federal Election Commission accepted the signed conciliation agreement and civil penalty submitted on your behalf in settlement of a violation of 2 U.S.C. § 441a(a)(1)(A), a provision of the Federal Election Campaign Act of 1971, as amended. Accordingly, the file has been closed in this matter as it pertains to you.

This matter will become a part of the public record within 30 days after it has been closed with respect to all other respondents involved. 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.

The Commission reminds you that the confidentiality provisions of 2 U.S.C. §§ 437g(a)(4)(B) and 437g(a)(12)(A) remain in effect until the entire matter has been closed. The Commission will notify you when the entire file has been closed. In the event you wish to waive confidentiality under 2 U.S.C. § 437g(a)(12)(A), written notice of the waiver must be submitted to the Commission. Receipt of the waiver will be acknowledged in writing by the Commission.

93040982469

Enclosed you will find a copy of the fully executed conciliation agreement for your files. If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Attorney

Enclosure
Conciliation Agreement

93040982470

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3422
Jimmy C. Davis	)	

RECEIVED
FEDERAL ELECTION COMMISSION
MAIL ROOM
92 JAN 29 PM 1:19

CONCILIATION AGREEMENT

This matter was initiated by the Federal Election Commission ("Commission"), pursuant to information ascertained in the normal course of carrying out its supervisory responsibilities. The Commission found reason to believe that Jimmy C. Davis violated 2 U.S.C. § 441a(a)(1)(A).

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JAN 31 PM 3:53

NOW, THEREFORE, the Commission and the Respondent, 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 Respondent 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. Respondent has had a reasonable opportunity to demonstrate that no action should be taken in this matter.

III. Respondent enters voluntarily into this agreement with the Commission.

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

1. Taylor for Congress Committee (the "Committee") is a political committee within the meaning of 2 U.S.C. § 431(4),

93040982471

and is the authorized principal campaign committee for Dudley W. Taylor's 1988 congressional campaign.

2. The Federal Election Campaign Act of 1971, as amended ("the Act"), limits the amount, to $1,000, that any individual may contribute to any candidate and his authorized committee with respect to any election. 2 U.S.C. § 441a(a)(1). The Act further prohibits a candidate or political committee from accepting any contribution in violation of the Act. 2 U.S.C. § 441a(f).

3. On July 21, 1988, the Respondent made contributions totalling $5,000 to the Committee. The contributions were made by means of three separate checks. One check was in the amount of $1,000, and the remaining two checks were each in the amount of $2,000.

4. All three checks were signed only by the Respondent. All three checks were designated for both the primary and general elections of the Committee.

V. 1. The contributions made by the Respondent to the Committee were excessive in the amount of $3,000, in violation of 2 U.S.C. § 441a(a)(1)(A).

VI. Respondent will pay a civil penalty to the Federal Election Commission in the amount of seven hundred fifty dollars ($750), pursuant to 2 U.S.C. § 437g(a)(5)(A).

VII. The Commission, on request of anyone filing a complaint under 2 U.S.C. § 437g(a)(1) concerning the matters at issue herein or on its own motion, may review compliance with this agreement. If the Commission believes that this agreement

9304098247 2

or any requirement thereof has been violated, it may institute a civil action for relief in the United States District Court for the District of Columbia.

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

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

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

93040982473

FOR THE COMMISSION:

Lawrence M. Noble
General Counsel

BY: _____ 2-12-92
Lois G. Lerner
Associate General Counsel
Date

FOR THE RESPONDENTS:

_____ 1/21/92
(Name)
(Position)
Date

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 20, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James W. Parris, Treasurer
Taylor for Congress
c/o Dudley W. Taylor
P.O. Box 835
Suite 1000
Andrew Johnson Office Plaza
912 South Gay Street
Knoxville, Tennessee 37901

RE: MUR 3422
Taylor for Congress;
James W. Parris, as treasurer

Dear Mr. Taylor:

This correspondence, which was originally sent on January 7, 1992 to the post office box address of Taylor for Congress, was unclaimed and returned to our Office. It is now being sent to you, so that you can forward it to the Treasurer of the Committee.

Please note that time is of the essence in this matter. Thank you for your cooperation.

Sincerely,

Tonda M. Mott
Staff Attorney

Enclosures
January 7, 1992 letter
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

93040982474

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

March 23, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James W. Parris, Treasurer
Taylor for Congress
c/o Dudley W. Taylor
P.O. Box 835
Suite 1000
Andrew Johnson Office Plaza
912 South Gay Street
Knoxville, Tennessee 37901

RE: MUR 3422
Taylor for Congress;
James W. Parris, as treasurer

Dear Mr. Taylor:

On February 20, 1992, you were notified that the Federal Election Commission determined to enter into negotiations directed toward reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. On that same date you were sent a conciliation agreement offered by the Commission in settlement of this matter. This notification followed a January 7, 1992 attempt to notify the treasurer of your committee, James W. Parris, which was unclaimed and returned to our Office.

Please note that conciliation negotiations entered into prior to a finding of probable cause to believe are limited to a maximum of 30 days. To date, you have not responded to the proposed agreement. The 30 day period for negotiations will soon expire. Unless we receive a response from you within five days, this Office will consider these negotiations terminated and will proceed to the next stage of the enforcement process.

Should you have any questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Attorney

9304098247 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 9, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

James W. Parris, Treasurer
Taylor for Congress
Bernstein, Stair & McAdams
530 South Gay Street, Suite 600
Knoxville, Tennessee 37902

Dear Mr. Parris:

On December 16, 1991, the Federal Election Commission ("Commission") found that there is reason to believe the Taylor for Congress ("Committee") and you, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act").

Notification of this action was sent to you on January 7, 1992, at the post office box address for the Committee. The correspondence was unclaimed and returned to our Office. This Office further sent a copy directly to the candidate, in an attempt to get this information to you.

As our Office has not heard from either you or the candidate, we are now sending to you, via this address, a copy of the Factual and Legal Analysis, which formed a basis for the Commission's finding, and a copy of the original notification letter which you should examine closely. The January 7, 1992 letter contains important information regarding the actions which you should take and the procedures of the Commission. Please note that time is of the essence in this matter.

In order to expedite the resolution of this matter, the Commission remains interested in entering into negotiations directed toward settling this matter prior to a finding of probable cause to believe. In this regard, I have enclosed the original conciliation agreement, which has been approved by the Commission.

93040982476

I have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act and a designation of counsel form, should you intend to be represented by counsel in this matter. If you have any questions, please contact me, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Tonda M. Mott
Staff Attorney

Attachments
January 7, 1992 letter
Factual and Legal Analysis
Procedures
Designation of Counsel Form
Conciliation Agreement

93040982477

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

APR 17 12 35 PM '92

BERNSTEIN, STAIR & MCADAMS
ATTORNEYS AT LAW
SUITE 600 FIRST TENNESSEE BANK BUILDING
530 SOUTH GAY STREET
KNOXVILLE, TENNESSEE 37902

BERNARD E. BERNSTEIN
L. CAESAR STAIR III
THOMAS N. MCADAMS
DORIS C. ALLEN
J. THOMAS JONES
CELESTE H. HERBERT
JAMES W. PARRIS
KELLY MICHAEL HUNDLEY
VIRGINIA A. SCHWAMM

TELEPHONE
(615) 546-8030
TELECOPIER
(615) 522-8879

92 APR 17 PM 3:44
RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

April 14, 1992

Ms. Tonda M. Mott
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Dear Ms. Mott:

As we discussed by telephone this afternoon, I have only today received your letter of April 9, 1992, and the enclosed letter addressed to me dated January 7, 1992, from Joan D. Aikens, Chairman of the Federal Election Commission.

Because these letters have only been received by me today, I ask that I be provided with an additional 20 days in which to respond to the matters set forth therein. You will receive my response no later than Monday, May 4, 1992.

I infer from reading the Factual and Legal Analysis included with your letter that responses have been made by Mr. Taylor in the past. I have not, at any time, been advised of the existence of this investigation or my role in it, even though my whereabouts have at all times been known to Mr. Taylor and his associates. I would appreciate your providing me with copies of any written responses submitted by Mr. Taylor.

With regard to the specific matters set forth in the Factual and Legal Analysis, by way of explanation, I would note that the excessive contributions for which I have some responsibility were each made by relatives or close personal friends of the candidate. At no time during the campaign in which the candidate was involved was I actively engaged in the campaign. I was named as treasurer of the committee by the candidate without my knowledge or consent. I at no time was made privy to any of the records or the receipts of the committee and, in fact, played no part in the activities of the committee.

As was apparently stated in the response of the candidate, for which I was not consulted and of which I was unaware until receipt of your letter, and as cited on page 9 of the Factual and Legal Analysis, the committee explained that its treasurer had "removed himself from the loop early in the process, and the assistant treasurer, Sheila Shipley, was not aware of this

9304098247 8

requirement until after the primary election. . .." I would submit that I did not remove myself from the loop but was, in fact, removed by the committee and the candidate. I was not provided with information relating to the campaign and should not be held responsible for the activities of the committee, the candidate or the agents of either.

As stated above, I have not been provided with the opportunity to review these matters with any of the interested parties. Notwithstanding that fact, I submit to you, as a partial response, and not as a final or definitive response, that my activities with the committee were minimal, and that I was excluded by the committee from all meaningful activities very early in the process. Accordingly, I feel that I should be under no obligation with regard to any of the matters set forth in your letter of April 9, 1992, and the attached documents.

I would appreciate your contacting me at your earliest convenience to discuss a resolution of this matter and confirming with me an extension of time for my formal response.

Thank you for your cooperation.

Sincerely,

JAMES W. PARRIS

JWP/jlp

93040982479

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 21, 1992

James W. Parris
Bernstein, Stair & McAdams
530 South Gay Street
Suite 600
Knoxville, Tennessee 37902

RE: MUR 3422
Taylor for Congress and
James W. Parris, as treasurer

Dear Mr. Parris:

This is in response to your letter dated April 14, 1992, which we received on April 17, 1992, requesting an extension of 20 days to respond to the Commission's determination in this matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted the requested extension. Accordingly, your response is due by the close of business on May 4, 1992.

I have enclosed for your information copies of the Interim Report of the Audit Division, written responses submitted by Mr. Taylor, and the Final Report of the Audit Division.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Enforcement Attorney

Enclosures

93040982480

BERNSTEIN, STAIR & MCADAMS
ATTORNEYS AT LAW
SUITE 600 530 SOUTH GAY STREET
KNOXVILLE, TENNESSEE 37902

BERNARD E. BERNSTEIN
L. CAESAR STAIR III
THOMAS N. MCADAMS
DORIS C. ALLEN
J. THOMAS JONES
CELESTE H. HERBERT
JAMES W. PARRIS
KELLY MICHAEL HUNDLEY
VIRGINIA A. SCHWAMM

TELEPHONE
(615) 546-8030
TELECOPIER
(615) 522-8879

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

MAY 4 10 44 AM '92

92 MAY -4 PM 3:36

93040982481

April 30, 1992

Ms. Tonda M. Mott
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

RE: MUR 3422

Dear Ms. Mott:

Thank you for letter of April 21, 1992, and the extension of time for responding to the determination of the Federal Election Commission (the "Commission") in this matter. I offer the following response to your letters and the finding of the Commission:

Background

In late 1985 I began practicing law with Mr. Taylor and one other attorney in Knoxville, Tennessee. In late 1986, Mr. Taylor took a leave of absence from the firm to act as Commissioner of Revenue for the State of Tennessee. Subsequent to his departure, our business relationship became strained due to what I perceived to be certain inequities resulting from his devotion of substantially all of his time to his duties as Commissioner of Revenue in Nashville, rather then to our practice in Knoxville. It was my understanding that Mr. Taylor would return from his duties as the Commissioner of Revenue in early 1989 and would resume the full time practice of law. However, in mid-1988, Mr. Taylor announced that he intended to run for Congress, an announcement which was a surprise to those in the firm.

Upon his return to Knoxville for the beginning of the campaign, Mr. Taylor announced to me that I had been named as the treasurer of his campaign committee. This announcement came as a surprise since I had neither been consulted or asked to take this responsibility. In hindsight, of course, I should have declined, but I did not do so at the time. I believe this was during the months of June or July of 1988.

As stated in Mr. Taylor's letter of August 21, 1990, to Robert J. Costa, Assistant Staff Director, Audit Division, I did not participate in the campaign process. Contrary to Mr.

Taylor's statement concerning my taking offense at an early typographical error, my lack of participation revolved around the fact that I was not, at any time, part of the "inside" campaign staff and never asked or wanted to become part of Mr. Taylor's regular campaign staff. My concern at that time was simply to continue the law practice in an orderly fashion, which was difficult given the ongoing campaign. The committee has explained in earlier correspondence to the Commission, that its treasurer had "removed himself from the loop early in the process. . .." I would submit that I did not remove myself from the loop but was, in fact, removed by the committee and the candidate. In any event, as clearly stated in the second paragraph of Mr. Taylor's letter of August 21, 1990, I did not participate in the campaign other than to sign certain of the reports submitted to the Commission.

As stated in Mr. Taylor's letter of August 21, 1990, I do have an accounting background. However, I have not been involved in a campaign for any office and had no cause at any time to become familiar with the rules, laws and regulations of federal elections. Contrary to Mr. Taylor's statements, I do not believe that my having involvement in the campaign would have in any way affected the filing of the reports in question. To the best of my recollection and belief, I was not at any time provided with access to any of the accounting records of the committee. I at no time participated in the solicitation of funds for the campaign, never received checks or other funds for the campaign, did not make deposits or disbursements of funds and, to the best of my recollection, did not participate in the preparation of the various reports filed with the Commission. Whether right or wrong on my part, my involvement in the campaign was limited to the signing in my capacity as treasurer of the committee of various reports filed with the Commission.

9304098248 2

Audit

Until my receipt on April 14, 1992, of your letter dated April 9, 1992, I was unaware of the existence of an examination of the financial records of the committee by the Commission. You have provided me with copies of letters dated June 19, 1990, September 20, 1990 and January 7, 1992, addressed to me in care of Mr. Taylor's law firm in Knoxville. At no time was I provided with copies of these letters by Mr. Taylor even though since June, 1990, my office has been located less than five blocks from his office in downtown Knoxville. I believe it is safe to say that at all times he was aware of my whereabouts and could have provided me with copies of each of these letters for an appropriate response if he had been inclined to do so. As stated in my letter to you of April 14, 1992, I have been completely

excluded from the audit process and, similarly, have been unable to address your concerns or to tell my side of the tale prior to this date. I would submit that this activity on the part of Mr. Taylor and the committee is indicative of my role in the campaign and the degree to which I was consulted and kept advised of activities during the course of the campaign. I was completely excluded both during the campaign and during the subsequent audit of the committee's records.

Law

As stated in your letter of April 9, 1992, and the documents from earlier dates with which you have provided me, the Commission believes that 2 U.S.C. §§441a(f) and 434(a)(6) have been violated. 2 U.S.C. §441a(f) states in part that "no candidate or political committee shall knowingly accept any contribution or make any expenditure in violation of the provisions of this section." This section requires both "acceptance" of a contribution and that such acceptance be made by a candidate or political committee with such candidate or political committee "knowing" that the contribution was made in violation of this sanction.

As stated above, I, personally, at no time accepted funds for or on behalf of the committee. All of my involvement, to the extent I had involvement, was after the fact, with others both soliciting the funds, accepting the funds, depositing the funds and reporting the receipt of the funds on the reports filed with the Commission. It should be noted that this statutory provision is the basis for the alleged violations relating to loan contribution received in excess of the applicable limitation, excessive contributions received from individuals, and excessive contribution for retirement of debt. Each of the contributions said to violate the statutory provision were received from friends or family members of the candidate. In each instance, I would not have been advised of the contribution until long after receipt, would not have been consulted about the acceptance of the contribution and, in any event, neither accepted nor knowingly accepted the contribution from the individuals in question. In fact, one of the transactions complained of was between the candidate and his wife, and the other contributions were made by close personal friends of the candidate. Any "acceptance" of these funds, particularly the funds delivered from the wife of the candidate, would likely have been made directly by the candidate himself.

The other statutory provision which was said to be violated was 2 U.S.C. §434(a)(6), which provides that "the principal campaign committee of a candidate shall notify the clerk. . .of

9304098248 3

any contribution of $1,000.00 or more received by any authorized committee of such candidate after the 20th day, but more than 48 hours before, any election." As stated by the candidate in his responses to the Commission, I did not participate in the activities of the committee. I was not provided with information which would have allowed me to participate in the activities of the committee. Accordingly, absent some theory similar to strict liability, I should not now be held responsible for the activities of the committee over which I had neither control nor input. As stated above, I at no time accepted contributions from any individual and certainly did not accept contributions knowing that they were in violation of this or any other statutory provision. As outlined in his letter of August 21, 1990, it is the candidate's position that of the total of $27,000.00 which the audit staff determined to be in violation of the 48 hour notification regulation, $20,000.00 represented a loan made by the candidate to the campaign. I was not aware of this loan and, in fact, was not aware of the receipt of funds by the committee. The candidate in his response indicates that the loan was made after my very limited involvement with the campaign had ended, whether through removal or withdrawal. In any event, the activities complained of were both beyond my control and taken without my knowledge.

<u>Summary</u>

As stated above and in my earlier letter to you, my involvement in the campaign was extremely limited both in scope and in time. I was from the beginning of the campaign excluded from any meaningful activity, was not made privy to the financial records of the committee and was not involved in the solicitation or acceptance of funds. It is the candidate's position that I "removed [myself] from the loop early in the process." It is my position that I was at all times excluded from the process. The candidate, in any event, clearly stated in his letter of August 21, 1990 that I "did not participate further other than to sign certain of the reports submitted" to the Commission.

The actions of the candidate subsequent to the campaign and during the audit of the committee by the Commission is indicative of his actions toward me during the campaign. As stated above, I have not at any time been made aware of the ongoing audit, the inquiries of the Commission or the letters addressed to me and received by the candidate at his law offices, which letters were not forwarded to me. I have called the office of the candidate since my receipt of your letter of April 9, 1992, and my call has gone unreturned. In a like manner, I was not at any time during the pendency of the campaign privy to the actions or financial affairs of the candidate, the campaign or the committee.

9304098248 4

2 U.S.C. §441a(f) requires the knowing acceptance of funds in violation of the applicable section. I never accepted funds for or on behalf of the committee and, certainly, never knowingly accepted funds in violation of the act. 2 U.S.C. §434(a)(6) requires the principal campaign committee to notify the Commission of the receipt of certain funds. By the candidate's own admission I was not involved in the activities of the committee upon receipt of the funds in question. Further, since I was never made aware of the receipt of the funds by the candidate of the committee, I would have in any event been unable to make the required report. Absent a theory of strict liability, I should not be held responsible for the actions of the committee in failing to file the appropriate reports.

I am submitting with this letter my affidavit in support of the factual matters set forth herein.

If you have any questions concerning this matter, I ask that you contact me at your earliest convenience.

Sincerely,

JAMES W. FARRIS

JWP/jlp

Enclosure

9304098248 5

AFFIDAVIT

STATE OF TENNESSEE
COUNTY OF KNOX

The undersigned, James W. Parris, after being duly sworn according to law does depose and state as follows:

1. My name is James W. Parris. I am a resident of Knoxville, Tennessee. I am an attorney licensed to practice law in the State of Tennessee.

2. During the months of June or July of 1988, I was advised by Dudley W. Taylor that I had been named treasurer for the Taylor for Congress Committee. I was not asked if I either desired or would accept the position. Instead, I was simply told that I had been named treasurer of the committee.

3. I did not at any time actively engage in the campaign of Mr. Taylor. I at no time participated in the solicitation of funds for the campaign, never received checks or other funds for the campaign, did not make deposits or disbursements of funds and, to the best of my recollection, did not participate in the preparation of the various reports filed with the Federal Election Commission. Due to personal disputes between Mr. Taylor and myself, I was neither asked nor allowed to be involved in the activities of the committee or the campaign.

4. My entire involvement in the campaign consisted of executing in my capacity as treasurer various reports filed with the Federal Election Commission, which reports had been prepared by other individuals. I did not have access to the financial records of the committee upon which such reports were based.

5. To the best of my knowledge and belief, I have not at any time been advised by Mr. Taylor of the ongoing examination of the committee by the Federal Election Commission or its staff. I have not, at any time, been provided with copies of correspondence from the Federal Election Commission addressed to me in care of Mr. Taylor at his law firm, Dyer & Taylor, in Knoxville, Tennessee. I have at all times during the applicable period resided in Knoxville, Tennessee and my whereabouts have been known or ascertainable by Mr. Taylor.

6. I was not aware of the allegation by the Federal Election Commission of the violation of federal election laws or regulations until my receipt of the letter from Tonda M. Mott addressed to me, dated April 9, 1992.

7. All statements set forth in my letter of April 30, 1992, to Tonda M. Mott are true and correct.

I:\JLP\PARRIS.AFF

92 MAY -4 PM 3:36
FEDERAL ELECTION COMMISSION
RECEIVED
OFFICE OF GENERAL COUNSEL
93040982486

Dated: April 30, 1992.

JAMES W. PARRIS

Sworn to and subscribed before me this 30 day of April, 1992.

Jackie L Pratt
Notary Public

My commission expires: 11-29-94

9304098248 7

I:\JLP\PARRIS.AFF

RECEIVED
F.E.C.
SECRETARIAT
92 JUN -8 PM 4:21

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Taylor for Congress Committee	)	MUR 3422
and Shelia L. Shipley,[1]	)	
as assistant treasurer and	)	
acting as treasurer	)	

GENERAL COUNSEL'S REPORT

I. BACKGROUND

On December 16, 1991, the Commission found reason to believe that Taylor for Congress Committee (the "Committee") and James W. Parris, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).[2] This Office made attempts, on January 7, 1992 and February 10, 1992, to notify the Committee of the Commission's actions. Both attempts resulted in the letters, which were sent to the treasurer of record, James W. Parris, at the post office address of the Committee, being unclaimed and returned. This Office then sent notification to the Committee in care of the candidate himself, on February 20, 1992 and March 23, 1992. Additionally, staff made several attempts to contact the

9304098248 8

1. The Commission previously made a reason to believe finding against the Committee and James W. Parris, as treasurer. The purpose of this report and its recommendations is to accurately reflect the name of the responsible treasurer.

2. On the same day, the Commission also found reason to believe but took no further action regarding violations involving a loan to the Committee by the candidate's wife, thus closing the file as it pertained to her. Additionally, the Commission found reason to believe that a contributor, Jimmy C. Davis, violated 2 U.S.C. § 441a(a)(1)(A). Subsequently, on February 10, 1992, the Commission accepted the signed conciliation agreement and payment of the civil penalty by Mr. Davis. Therefore, the Committee and its treasurer are the only remaining Respondents.

candidate by telephone; however, her calls were not returned.[3]

Staff located James W. Parris, at his place of business, and sent notification of the Commission's action directly to that address, on April 9, 1992. On April 14, 1992, Mr. Parris called to inform this Office that he had received our letter, and had been unaware of the Commission's audit and investigation of the Committee. On the same day, Mr. Parris sent a letter to that effect, which our Office received on April 17, 1992. Attachment 1. In the letter, Mr. Parris also requested an extension of time until May 4, 1992, in which to fully respond. Mr. Parris' response and an attached affidavit, both dated April 30, 1992, were received by this Office on May 4, 1992. Attachment 2.

II. ANALYSIS

In his response, Mr. Parris states, "[u]ntil my receipt on April 14, 1992, of your letter dated April 9, 1992, I was unaware of the existence of an examination of the financial records of the committee by the Commission." This is supported by the audit papers and the audit staff. Further, Mr. Taylor states, "Mr. Parris has not participated in the process." See, First General Counsel's Report dated December 12, 1991, Attachment 4, p. 1.

---

3. Mr. Taylor stated in his response to the Interim Audit Report that Ms. Shipley is also his secretary in his law practice. See, First General Counsel's Report dated December 12, 1991, Attachment 4, p. 1. The telephone messages left by staff for Mr. Taylor were left with a woman who identified herself as Mr. Taylor's secretary.

93040982489

Mr. Parris states that his whereabouts have at all times been known to Mr. Taylor; yet, Mr. Taylor has not informed him of the audit and has thus excluded [him] from the audit process and not allowed him to "tell [his] side of the tale." Attachment 1, p. 3. Mr. Parris argues that "this activity on the part of Mr. Taylor and the committee is indicative of [his] role in the campaign and the degree to which [he] was consulted and kept advised of activities during the course of the campaign." Id.

Mr. Parris states that he had been "named as treasurer of the committee by the candidate without his knowledge or consent." Attachment 1, p. 1; Attachment 2, p. 1. He also maintains that he had, in fact, done no actual work for the Committee. Mr. Parris states, "my activities with the committee were minimal, and [] I was excluded by the committee from all meaningful activities very early in the process." Attachment 1, p. 2. In his affidavit, Mr. Parris swears that his "entire involvement in the campaign consisted of executing in [his] capacity as treasurer various reports filed with the [Commission], which reports had been prepared by other individuals." Attachment 2, p. 6. He further maintains that he "did not have access to the financial records of the committee upon which such reports were based." Id.

Mr. Parris' position is supported by Mr. Taylor's response to the Interim Audit Report. Mr. Taylor stated that Mr. Parris withdrew early in the campaign, and "did not participate further other than to sign certain of the reports submitted thereafter."

9304098249 0

See, First General Counsel's Report dated December 12, 1991, Attachment 4, p. 1. Mr. Taylor further stated that "we [the Committee] ended up relying almost entirely on Shelia Shipley, the Assistant Treasurer, to maintain our records and file the reports." Id.

Mr. Parris also asserts that he could not have "knowingly accepted" any contribution in violation of 2 U.S.C. § 441a(a), because he "personally, at no time accepted funds for or on behalf of the committee." Attachment 2, p. 3. In regards to the Section 434 violation, Mr. Parris argues that he was "not provided with information which would have allowed [him] to participate in the activities of the committee," and thus was not aware of the loans and contributions which would have been required to be reported per 2 U.S.C. § 434(a)(6). Id., pp. 3-4. Thus, he concludes that "the activities complained of were both beyond [his] control and taken without [his] knowledge." Id., p. 4.

The Committee's Statement of Organization lists James W. Parris as the treasurer, and Shelia L. Shipley as the assistant treasurer. Thus, Ms. Shipley was responsible in her capacity as assistant treasurer, acting as treasurer. All indications suggest that Mr. Parris did not actively participate in the campaign of Mr. Taylor, and was not kept informed of either the activities of the campaign or the Commission's audit and subsequent MUR. Moreover, Mr. Taylor, himself, indicated that Ms. Shipley, as assistant treasurer, actually performed the duties of the treasurer.

93040982491

Further, in addition to Mr. Parris' limited involvement and Mr. Taylor's statement that the Committee relied on Ms. Shipley, the timing of the violations implicates Ms. Shipley. Most of the violations occurred during time periods in which she, rather than Mr. Parris, signed the initial or final amended report. The following chart shows the signator for each report:[4]

COVERING PERIOD		SIGNATOR PARRIS	SIGNATOR SHIPLEY
7/8 - 7/15/88		X	
7/16 - 9/30/88			X
7/16 - 8/10/88	(amendment)	X	
8/11 - 9/30/88	(amendment)	X	
7/8 - 12/31/88	(amendment)[5]		X
10/1 - 10/19/88			X
10/20 - 11/28/88		X	
11/29 - 12/31/88		X	
1/1 - 6/20/89			X
7/1 - 12/31/89			X
1/1 - 6/30/90			X

Therefore, this Office recommends that the Commission take no further action against James W. Parris. Further, this Office recommends that the Commission find reason to believe that Shelia L. Shipley, as assistant treasurer and acting as treasurer of the Taylor for Congress Committee, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

9304098249 2

---

4. The contributions involved in the excessive contributions were received on July 18 (two contributions), September 13 (two contributions), October 4, October 17, and October 29 of 1988. The 48-hour contributions were received on August 11 (two contributions), August 16 (two contributions), August 22 (two contributions), October 24, and November 1, 1988.

5. This comprehensive amendment was filed by the Committee on October 1, 1990 (signed and dated September 20, 1990).

III. RECOMMENDATIONS

1. Take no further action against James W. Parris.

2. Find reason to believe that Shelia L. Shipley, as assistant treasurer and acting as treasurer of the Taylor for Congress Committee, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

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

Lawrence M. Noble
General Counsel

6/2/92
Date

BY: Lois G. Lerner
Associate General Counsel

Attachments
1. April 14, 1992 letter from James W. Parris
2. Response of James W. Parris
3. Factual and Legal Analysis

Staff Assigned: Tonda M. Mott

93040982493

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Taylor for Congress Committee	)	MUR 3422
and Sheila L. Shipley, as assistant	)	
treasurer and acting as treasurer.		

CERTIFICATION

I, Marjorie W. Emmons, Secretary of the Federal Election Commission, do hereby certify that on June 12, 1992, the Commission decided by a vote of 5-0 to take the following actions in MUR 3422:

1. Take no further action against James W. Parris.

2. Find reason to believe that Sheila L. Shipley, as assistant treasurer and acting as treasurer of the Taylor Congress Committee, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

3. Approve the appropriate letter, the factual and legal analysis, and the conciliation agreement, as recommended in the General Counsel's Report dated June 5, 1992.

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

Attest:

6/12/92
Date

Delores R. Harris
for Marjorie W. Emmons
Secretary of the Commission

Received in the Secretariat:	Mon.,	June 08, 1992	4:21 p.m.
Circulated to the Commission:	Tues.,	June 09, 1992	11:00 a.m.
Deadline for vote:	Fri.,	June 12, 1992	4:00 p.m.

bjr

93040982494

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 19, 1992

James W. Parris
Berstein, Stair & McAdams
530 South Gay Street
Suite 600
Knoxville, Tennessee 37902

RE: MUR 3422

Dear Mr. Parris:

On April 9, 1992, you were notified that the Federal Election Commission (the "Commission") found reason to believe that Taylor for Congress and you, as treasurer, violated provisions of the Federal Election Campaign Act of 1971, as amended. On April 14, 1992, you submitted a response to the Commission's reason to believe findings.

After considering the circumstances of the matter, the Commission determined on June 12, 1992, to take no further action against you, and closed the file as it pertains to you. The file will be made part of the public record within 30 days after this matter has been closed with respect to all other respondents involved. Should you wish to submit any factual or legal 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.

The confidentiality provisions of 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) remain in effect until the entire matter is closed. The Commission will notify you when the entire file has been closed.

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Attorney

9304098249 5

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 19, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shelia L. Shipley, Treasurer
Taylor for Congress
c/o Dudley W. Taylor
Suite 1000
Andrew Johnson Office Plaza
912 South Gay Street
Knoxville, Tennessee 37901

RE: MUR 3422
Taylor for Congress and
Shelia L. Shipley, as
treasurer

Dear Ms. Shipley:

On June 12, 1992, the Federal Election Commission found that there is reason to believe you, as assistant treasurer and acting as treasurer of Taylor for Congress (the "Committee"), violated 2 U.S.C. §§ 441a(f) and 434(a)(6), provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission previously, on December 16, 1991, found reason to believe that the Committee violated 2 U.S.C. §§ 441a(f) and 434(a)(6). 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.

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.

93040982496

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 Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Joan D. Aikens

Joan D. Aikens
Chairman

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

93040982497

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENT: Taylor for Congress
and Shelia L. Shipley,
as assistant treasurer
and acting as treasurer

MUR: # 3422

I. GENERATION OF MATTER

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

II. FACTUAL AND LEGAL ANALYSIS

The Committee's Statement of Organization lists James W. Parris as the treasurer, and Shelia L. Shipley as the assistant treasurer. Mr. Parris has responded denying his involvement in and responsibility for the activities and reports of the Committee. Ms. Shipley was responsible in her capacity as assistant treasurer, acting as treasurer.

Mr. Parris' response stated that "[u]ntil my receipt on April 14, 1992, of your letter dated April 9, 1992, I was unaware of the existence of an examination of the financial records of the committee by the Commission." This is supported by the audit papers and the audit staff. Further, Mr. Taylor stated, "Mr. Parris has not participated in the process." See, First General Counsel's Report dated December 12, 1991, Attachment 4, p. 1.

93040982498

Mr. Parris stated that his whereabouts have at all times been known to Mr. Taylor; yet, Mr. Taylor has not informed him of the audit and has thus excluded [him] from the audit process and not allowed him to "tell [his] side of the tale." Attachment 1, p. 3. Mr. Parris argued that "this activity on the part of Mr. Taylor and the committee is indicative of [his] role in the campaign and the degree to which [he] was consulted and kept advised of activities during the course of the campaign." Id.

Mr. Parris stated that he had been "named as treasurer of the committee by the candidate without his knowledge or consent." Attachment 1, p. 1; Attachment 2, p. 1. He also maintained that he had, in fact, done no actual work for the Committee. Mr. Parris stated, "my activities with the committee were minimal, and [] I was excluded by the committee from all meaningful activities very early in the process." Attachment 1, p. 2. In his affidavit, Mr. Parris swore that his "entire involvement in the campaign consisted of executing in [his] capacity as treasurer various reports filed with the [Commission], which reports had been prepared by other individuals." Attachment 2, p. 6. He further maintained that he "did not have access to the financial records of the committee upon which such reports were based." Id.

Mr. Parris' position is supported by Mr. Taylor's response to the Interim Audit Report. Mr. Taylor stated that Mr. Parris withdrew early in the campaign, and "did not participate further other than to sign certain of the reports submitted thereafter."

9304098249 9

See, First General Counsel's Report dated December 12, 1991, Attachment 4, p. 1. Mr. Taylor further stated that "we [the Committee] ended up relying almost entirely on Shelia Shipley, the Assistant Treasurer, to maintain our records and file the reports." Id.

Mr. Parris also asserted that he could not have "knowingly accepted" any contribution in violation of 2 U.S.C. § 441a(a), because he "personally, at no time accepted funds for or on behalf of the committee." Attachment 2, p. 3. In regards to the Section 434 violation, Mr. Parris argued that he was "not provided with information which would have allowed [him] to participate in the activities of the committee," and thus was not aware of the loans and contributions which would have been required to be reported per 2 U.S.C. § 434(a)(6). Id., pp. 3-4. Thus, he concluded that "the activities complained of were both beyond [his] control and taken without [his] knowledge." Id., p. 4.

Mr. Parris did not actively participate in the campaign of Mr. Taylor, and was not kept informed of either the activities of the campaign or the Commission's audit and subsequent MUR. Moreover, Mr. Taylor, himself, indicated that Ms. Shipley, as assistant treasurer, actually performed the duties of the treasurer.

Further, in addition to Mr. Parris' limited involvement and Mr. Taylor's statement that the Committee relied on Ms. Shipley, the timing of the violations implicates Ms. Shipley. Most of the violations occurred during time periods in which she, rather

9304098250 0

than Mr. Parris, signed the initial or final amended report. The following chart shows the signator for each report:[1]

COVERING PERIOD		SIGNATOR PARRIS	SIGNATOR SHIPLEY
7/8 - 7/15/88		X	
7/16 - 9/30/88			X
7/16 - 8/10/88	(amendment)	X	
8/11 - 9/30/88	(amendment)	X	
7/8 - 12/31/88	(amendment)[2]		X
10/1 - 10/19/88			X
10/20 - 11/28/88		X	
11/29 - 12/31/88		X	
1/1 - 6/20/89			X
7/1 - 12/31/89			X
1/1 - 6/30/90			X

Therefore, there is reason to believe that Shelia L. Shipley, as assistant treasurer and acting as treasurer of the Taylor for Congress Committee, violated certain provisions of the Federal Election Campaign Act of 1971, as amended (the "Act").

1. <u>Loan Contribution Received in Excess of the Limitation</u>

The Act limits the amount, to $1,000, that an individual may contribute to any candidate and his authorized committee with respect to any election. 2 U.S.C. § 441a(a). The Act prohibits a candidate or political committee from accepting any contribution in violation of the Act. 2 U.S.C. § 441a(f). The Act defines "contribution" as "any gift, subscription, loan,

---

1. The contributions involved in the excessive contributions were received on July 18 (two contributions), September 13 (two contributions), October 4, October 17, and October 29 of 1988. The 48-hour contributions were received on August 11 (two contributions), August 16 (two contributions), August 22 (two contributions), October 24, and November 1, 1988.

2. This comprehensive amendment was filed by the Committee on October 1, 1990 (signed and dated September 20, 1990).

9304098250 1

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. § 431(8)(A)(i). A loan is considered a contribution, and a loan which exceeds the contribution limitations is unlawful whether or not it is repaid. 11 C.F.R. § 100.7(a)(1)(i). Further, the regulations state that "with respect to any election" means, where a contribution designated in writing by the contributor for a particular election, the election so designated. 11 C.F.R. § 110.1(b)(2)(i).

On October 3, 1988, the Committee received a $25,000 check, signed by Jannie G. Taylor, the candidate's spouse. The loan check was drawn on a joint checking account. The Committee repaid the loan in four installments, with the last installment paid on May 12, 1989.

Audit recommended that the Committee provide any additional information or comments about the loan. According to the candidate, the check was intended to be a loan from the candidate to the Committee, rather than a contribution from his spouse. The candidate stated that the "funds represented by this loan were funds earned by me and were loaned by me to my campaign. The only role that my wife served was that of an agent, in terms of endorsing and delivering the check drawn on our joint account at my request, at a time when I was out of town." The Committee provided a signed statement to the Audit from Jannie G. Taylor to that effect.

A candidate may obtain a loan which requires the signature of the candidate's spouse if jointly owned assets are used as

9304098250 2

collateral, and the spouse will not be considered a contributor to the campaign if the candidate's share of the property equals the amount of the loan. 11 C.F.R. § 100.7(a)(1)(i)(D). Further, a candidate may make unlimited expenditures from personal funds, including a portion of assets jointly held with his spouse. 11 C.F.R. § 110.10. However, a spouse may not contribute more than the $1,000 individual limitation.

The Commission's regulations make it clear that where a check is drawn on a joint checking account, the contribution is considered to be made by the person whose signature appears on the check. See 11 C.F.R. § 104.8(c). Moreover, 11 C.F.R. § 100.7(c) provides that a contribution made by an individual shall not be attributed to any other individual, unless otherwise specified by that individual in accordance with 11 C.F.R. § 110.1(k). To be considered a contribution by more than one person, section 110.1(k)(1) requires the signature of each contributor on the instrument or in a separate writing.

This transaction was an excessive contribution from the candidate's spouse in violation of 2 U.S.C. § 441a(a). The regulations would have permitted the candidate to loan funds to the Committee from his joint bank account, or cosign a loan with his wife using jointly held assets as collateral. They do not permit his wife to loan money to the campaign on her husband's behalf in excess of her individual contribution limitation. Since Mrs. Taylor's signature is the only one on the loan check, the loan must be considered a contribution from her, which exceeds her individual contribution limitation by $23,000.

9304098250 3

Therefore, there is reason to believe that the Taylor for Congress Committee and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. § 441a(f).

2. **Excessive Contributions Received From Individuals**

The Act provides that no individual shall make contributions to any candidate or his authorized committees with respect to any election for federal office that, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). This limitation applies separately with respect to each election. 2 U.S.C. § 441a(a)(6). The Act further provides that no candidate or political committee shall knowingly accept a contribution in violation of these provisions. 2 U.S.C. § 441a(f).

The Committee received excessive contributions, totaling $4,500, from three individuals. The first individual, Wade Till, made three contributions, written on joint accounts. Only Wade Till's signature appeared on all three checks, and no further indications were made. One of the checks, in the amount of $1,250, was dated September 13, 1988. The other two were dated October 4 and 29, 1988, and were for the amounts of $750 and $1,000, respectively. As no designation was indicated on the checks, and the General and Special General were to occur simultaneously as the next election following the contributions, the Committee could designate $1,000 to each election. On September 24, 1990, Wade and Rebecca Till reattributed the remaining $1,000 to Mrs. Till. The reattribution was not made within the 60 days allowed by the regulations. 11 C.F.R.

9304098250 4

§ 110.1(k)(3)(ii)(B). Thus, the contribution by Till was excessive in the amount of $1,000.

The second individual, James Rogers Carroll, made three contributions to the Committee, all drawn on a single-signatory account. There was no indication that the contributions represented a contribution from someone other than the individual who signed the check. The dates and amounts of those contributions were: July 18, 1988 for $500; September 13, 1988 for $1,000; and October 17, 1988 for $1,500. As no designation was indicated on the checks, the Committee could attribute the contributions to the next election. Thus, the July contribution would be attributed to the Primary election, it being the next election. The General and Special General were to occur simultaneously as the next election following the September and October contributions; thus, the Committee could designate $1,000 to each election. On September 21, 1990, James and Dorothy Carroll reattributed the remaining $500 to Mrs. Carroll. This reattribution was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Thus, the contribution by Carroll was excessive in the amount of $500.

The third individual, Jimmy C. Davis, contributed three checks which were not drawn on joint accounts. Two checks were dated July 18, 1988. One check was not dated. Each check was annotated with the name of a different individual, single contributor (e.g. "for Virginia Lois Davis"); however, only Jimmy C. Davis' signature appeared on the checks, and no further signatures were attached in a separate writing. One check,

9304098250 5

noted as a contribution by Jimmy Anthony Davis, was in the amount of $1,000. The other two checks, noted as contributions by Jim Davis and Virginia Lois Davis, were in the amount of $2,000 each. Indications also appeared on the checks that the contributions were for the Primary and General elections.

As Jimmy C. Davis was the only signatory, and the contributions were designated by the contributor for the primary and general elections, $2,000 of the contributions was proper. On September 21, 1990 Jimmy C. and Lois Davis reattributed to the Special Primary and Special General elections, and redesignated to Mrs. Davis, the remaining $3,000. This reattribution and redesignation was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Thus, the contribution by Davis was excessive in the amount of $3,000.

Therefore, there is reason to believe that the Taylor for Congress and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting such contributions.

3. <u>Excessive Contributions for Retirement of Debt</u>

2 U.S.C. § 434(b)(8) requires that committees keep accurate records of "the amount and nature of outstanding debts and obligations owed by or to such political committees." Committees may accept contributions designated in writing for a particular election, but which are made after the designated election. 11 C.F.R. § 110.1(b)(3)(i). However, such contributions can not exceed the net debts outstanding from the

9304098250 6

designated election. To the extent that the contributions do exceed the net debt outstanding, the committee can redesignate the contributions to another election; however, the redesignation must be done within sixty days from receipt of the contributions. 11 C.F.R. § 110.1(b)(3)(i)(B).

According to Audit, the Committee received excessive contributions totaling $7,400 from three political committees. These contributions were made for the purpose of retiring debt that the Committee believed it had from the primary election. However, the contributions were made after the primary.

The Tennessee Democratic Party made a $5,000 contribution on November 1, 1988. Audit determined that $1,100 of that amount could be applied to the General Election because the contributor still had that amount remaining for its limit to the General election, which was the next election following the contribution. Thus, the contribution was excessive by $3,900.

The United Steelworkers of America PAC contributed $2,500 on November 2, 1988. On February 24, 1989, a $1,000 contribution was made by Drive Political Action Committee. Both Committees had already made maximum contributions to the General election. Thus, the entire contribution for each was excessive.

Audit initially determined that the Committee had no net debts outstanding as of the dates of the Primary, Special Primary, and Special General elections. The Committee contended that it believed it had a primary debt, and submitted documentation to demonstrate that there was a primary debt. Based on the documentation submitted by the Committee, Audit

9304098250 7

recalculated the Committee's financial position as of November 8, 1988 (the date of the special general election), and determined that there was no primary debt, but that there was special general election debt in the amount of $9,985.30.

The Committee submitted letters from the three political committees, redesignating the contributions to the special general election. The redesignations, dated September 1990, were untimely. Therefore, there is reason to believe that the Taylor for Congress Committee and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. § 441a(f).

4. Contributions Subject To 48-Hour Notification

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

9304098250 8

The Primary was held on August 4, 1988, and the Special Primary on August 25, 1988. The General and Special General elections were both held on November 8, 1988. Pursuant to the Act, the Respondents were required to notify the Commission, in writing, of all contributions of $1,000 or more received from July 15, 1988 through August 1, 1988, from August 5, 1988 through August 22, 1988, and from October 19, 1988 through November 5, 1988, within 48 hours of their receipt.

The Audit review of contributions revealed eight contributions, subject to the 48-hour notification rule of 11 C.F.R. § 104.5(f). These contributions, totaling $27,000, were deposited into the Committee's account, but no 48-hour notification was filed with the Commission. The Committee spokesman stated that the Committee had been unaware of the 48-hour notification rule. After notice of such requirement, the Committee attempted to file the notifications. Audit recommended that the Committee provide evidence to demonstrate that it did not violate 11 C.F.R. § 104.5(f).

In response, the Committee stated that $20,000 was a loan from the candidate to his campaign. The remaining $7,000 derived from seven different individuals, each with a $1,000 contribution. The Committee explained that its Treasurer had "removed himself from the loop early in the process, and the Assistant Treasurer, Sheila Shipley, was not aware of this requirement until after the Primary election, when she was notified as to this responsibility. She then apparently filed the appropriate notices for the General elections until her

9304098250 9

hospitalization for emergency surgery, and at that time, she was unaware that I was planning to make a loan."

The Act clearly provides that a committee must report all contributions of $1,000 or more which are received after the 20th day, but more than 48 hours before 12:01 A.M. of the day of the election, within 48 hours of receipt of the contribution. 2 U.S.C. § 434(a)(6). Therefore, there is reason to believe that the Taylor for Congress Committee and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. § 434(a)(6).

9304098251 0

RECEIVED
F.E.C.
SECRETARIAT

92 JUN 22 AM 10:54

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Taylor for Congress and	)	MUR 3422
Shelia L. Shipley, as treasurer	)	

COMPREHENSIVE INVESTIGATIVE REPORT #1

On December 16, 1991, the Commission found reason to believe that Taylor for Congress (the "Committee") and James W. Parris, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6). This Office made attempts, on January 7, 1992 and February 10, 1992, to notify the Committee of the Commission's actions. Notification letters were sent to the treasurer of record, James W. Parris, at the post office address of the Committee. Both attempts resulted in the letters being unclaimed and returned. This Office then sent notification to the Committee in care of the candidate himself, on February 20, 1992 and March 23, 1992. Additionally, staff made several attempts to contact the candidate by telephone; however, her calls were not returned. On April 9, 1992, this Office sent notification to Mr. Parris, at his place of business.

On June 12, 1992, based on the response received from Mr. Parris, the Commission voted to take no further action against James W. Parris. On the same day, the Commission also found reason to believe that Shelia L. Shipley, as assistant treasurer and acting as treasurer of the Taylor for Congress Committee, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

9304098251 1

The factual and legal analysis from the original reason to believe finding was eventually sent to the candidate, Dudley Taylor. This Office also made numerous attempts to contact the candidate. Mr. Taylor has not responded. The factual and legal analysis for the reason to believe finding against Ms. Shipley (inclusive of the finding against the Committee) will also be sent to Mr. Taylor's office, as we know that Shelia Shipley is a secretary for Mr. Taylor, at his law office.[1] Due to Mr. Taylor's non-responsiveness to the previous contacts, a conciliation agreement will not be included with the reason to believe notice which is now being sent. Instead, this Office will assess whether pre-probable cause conciliation is warranted following any response by the Committee and Ms. Shipley.

Lawrence M. Noble
General Counsel

Date 6/19/92

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

Staff assigned: Tonda M. Mott

93040982512

1. Mr. Taylor stated in his response to the Interim Audit Report that Ms. Shipley is also his secretary in his law practice. See, First General Counsel's Report dated December 12, 1991, Attachment 4, p. 1. The telephone messages left by staff for Mr. Taylor were left with a woman who identified herself as Mr. Taylor's secretary.

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS / DONNA ROACH
SECRETARY OF THE COMMISSION

DATE: JUNE 23, 1992

SUBJECT: MUR 3422 - COMPREHENSIVE INVESTIGATIVE REPORT #1 DATED JUNE 19, 1992.

The above-captioned matter was received in the Commission Secretariat at 10:54 a.m. on Monday, June 22, 1992 **and circulated on a 24-hour no-objection basis at** 4:00 p.m. on Monday, June 22, 1992.

There were no objections to the above-captioned matter.

93040982513

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

July 17, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shelia L. Shipley, Assistant Treasurer
Taylor for Congress
c/o Dudley W. Taylor
Suite 1000
Andrew Johnson Office Plaza
912 South Gay Street
Knoxville, Tennessee 37901

RE: MUR 3422

Dear Ms. Shipley:

On June 19, 1992, you were notified that the Federal Election Commission (the "Commission") found reason to believe Taylor for Congress (the "Committee") and you, as assistant treasurer and acting as treasurer of the Committee, violated 2 U.S.C. §§ 441a(f) and 434(a)(6). The Factual and Legal Analysis, which formed a basis for the Commission's finding, was also forwarded at that time. For your convenience, a second copy of the Factual and Legal Analysis is enclosed.

To date, you have not responded to the findings of the Commission. The 15 period for response has expired. Unless we receive a response from you within five days, this Office will proceed to the next stage of the enforcement process.

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.

93040982514

For your information, we have enclosed a brief description of the Commission's procedures for handling possible violations of the Act. Should you have any questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott
Attorney

Enclosures
Factual and Legal Analysis
Procedures
Designation of Counsel Form

9304098251 5

MUR 3422

RECEIVED
FEDERAL ELECTION
COMMISSION
MAIL ROOM

Jul 27 1 41 PM '92

BERNSTEIN, STAIR & MCADAMS

ATTORNEYS AT LAW

SUITE 600 530 SOUTH GAY STREET

KNOXVILLE, TENNESSEE 37902

BERNARD E. BERNSTEIN
L. CAESAR STAIR III
THOMAS N. MCADAMS
DORIS C. ALLEN
J. THOMAS JONES
CELESTE H. HERBERT
JAMES W. PARRIS
KELLY MICHAEL HUNDLEY
VIRGINIA A. SCHWAMM

TELEPHONE
(615) 546-8030
TELECOPIER
(615) 522-8879

July 24, 1992

Ms. Tonda M. Mott
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Taylor For Congress Committee

Dear Ms. Mott:

Enclosed for your review is a copy of my letter dated June 3, 1992, to Ms. Robin Kelly, by which I formally resigned as Treasurer of the Taylor for Congress Committee.

Thank you for your cooperation.

Sincerely,

JAMES W. PARRIS

JWP/jlp

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL

92 JUL 27 PM 3:37

9304098251 6

BERNSTEIN, STAIR & MCADAMS
ATTORNEYS AT LAW
SUITE 600 530 SOUTH GAY STREET
KNOXVILLE, TENNESSEE 37902

BERNARD E. BERNSTEIN
L. CAESAR STAIR III
THOMAS N. MCADAMS
DORIS C. ALLEN
J. THOMAS JONES
CELESTE H. HERBERT
JAMES W. PARRIS
KELLY MICHAEL HUNDLEY
VIRGINIA A. SCHWAMM

TELEPHONE
(615) 546-5030
TELECOPIER
(615) 522-5679

June 3, 1992

RECEIVED
FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
92 JUL 27 PM 3:37

Ms. Robin Kelly
Reports Analysis Division
Federal Election Commission
999 E Street, N.W.
Washington, DC 20463

Re: Taylor for Congress Committee - MUR 3422

Dear Ms. Kelly:

This letter will serve as formal notice of my resignation as Treasurer of the Taylor for Congress Committee. As set forth in my letters to Tonda M. Mott of April 14, 1992 and April 30, 1992, it is my position that I effectively resigned the position of Treasurer in late summer of 1988.

Please contact me at your earliest convenience if you have any questions concerning this matter.

Sincerely,

JAMES W. PARRIS

JWP/jlp

93040982517

RECEIVED
F.E.C.
SECRETARIAT

92 OCT -6 AM 10: 08

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

SENSITIVE

October 6, 1992

MEMORANDUM

TO: The Commission

FROM: Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

SUBJECT: MUR 3422 - Taylor for Congress Committee and Shelia L. Shipley, as assistant treasurer and acting as treasurer.

On December 16, 1991, the Commission found reason to believe that Taylor for Congress Committee (the "Committee") and James W. Parris, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

On June 12, 1992, based on the response received from Mr. Parris, the Commission voted to take no further action against James W. Parris. On the same day, the Commission also found reason to believe that Shelia L. Shipley, as assistant treasurer and acting as treasurer of the Taylor for Congress Committee, violated 2 U.S.C. §§ 441a(f) and 434(a)(6). At that time, this Office inadvertently failed to further recommend that the Commission close the file as it pertains to James W. Parris. We now make that recommendation.

RECOMMENDATION

Close the file as it pertains to James W. Parris.

Staff Assigned: Tonda M. Mott

9304098258

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS /DONNA ROACH DR
COMMISSION SECRETARY

DATE: OCTOBER 13, 1992

SUBJECT: MUR 3422 - MEMORANDUM TO THE COMMISSION DATED OCTOBER 6, 1992

The above-captioned document was circulated to the Commission on TUES., OCTOBER 6, 1992 at 11:00 A.M. .

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

Commissioner Aikens	
Commissioner Elliott	
Commissioner McDonald	XXX
Commissioner McGarry	
Commissioner Potter	
Commissioner Thomas	

This matter will be placed on the meeting agenda for TUESDAY, OCTOBER 20, 1992 .

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

93040982519

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3422
Taylor for Congress Committee and	)	
Shelia L. Shipley, as assistant	)	
treasurer and acting as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on October 20, 1992, do hereby certify that the Commission decided by a vote of 6-0 to close the file in MUR 3422 as it pertains to James W. Parris.

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

Attest:

10-20-92
Date

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

93040982520

RECEIVED
F.E.C.
SECRETARIAT

92 OCT 23 PM 3:35

BEFORE THE FEDERAL ELECTION COMMISSION

SENSITIVE

In the Matter of	)	
	)	
Taylor for Congress	)	MUR 3422
and Shelia L. Shipley,	)	
as assistant treasurer	)	

GENERAL COUNSEL'S REPORT

The Office of the General Counsel is prepared to close the investigation in this matter as to Taylor for Congress and Shelia L. Shipley, as assistant treasurer, based on the assessment of the information presently available.

10/23/92
Date

Lawrence M. Noble
General Counsel

93040982521

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

November 27, 1992

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shelia L. Shipley, Assistant Treasurer
Taylor for Congress
c/o Dudley W. Taylor
Suite 1000
Andrew Johnson Office Plaza
912 South Gay Street
Knoxville, Tennessee 37901

RE: MUR 3422
Taylor for Congress and
Shelia L. Shipley, as
assistant treasurer and
acting as treasurer

Dear Ms. Shipley:

Based on information ascertained in the normal course of carrying out its supervisory responsibilities, and information supplied by you, on June 12, 1992, the Federal Election Commission found reason to believe that Taylor for Congress ("Committee") and you, as assistant treasurer and acting as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6), and instituted an investigation in this matter.

After considering all the evidence available to the Commission, the Office of the General Counsel is prepared to recommend that the Commission find probable cause to believe that violations have occurred.

The Commission may or may not approve the General Counsel's recommendation. Submitted for your review is a brief stating the position of the General Counsel on the legal and factual issues of the case. Within 15 days of your receipt of this notice, you may file with the Secretary of the Commission a brief (ten copies if possible) stating your position on the issues and replying to the brief of the General Counsel. (Three copies of such brief should also be forwarded to the Office of the General Counsel, if possible.) The General Counsel's brief and any brief which you may submit will be considered by the Commission before proceeding to a vote of whether there is probable cause to believe a violation has occurred.

9304098252 2

If you are unable to file a responsive brief within 15 days, you may submit a written request for an extension of time. All requests for extensions of time must be submitted in writing five days prior to the due date, and good cause must be demonstrated. In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days.

A finding of probable cause to believe requires that the Office of the General Counsel attempt for a period of not less than 30, but not more than 90 days, to settle this matter through a conciliation agreement.

Should you have any questions, please contact Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Brief

93040982523

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Taylor for Congress	)	MUR 3422
and Shelia L. Shipley,	)	
as assistant treasurer and	)	
acting as treasurer	)	

GENERAL COUNSEL'S BRIEF

I. STATEMENT OF THE CASE

This matter was generated based on information ascertained by the Federal Election Commission (the "Commission") in the normal course of carrying out its supervisory responsibilities pursuant to Section 437g(a)(2) of the Federal Election Campaign Act of 1971, as amended ("the Act"). On September 12, 1991, the Commission referred to the Office of the General Counsel four matters noted during an audit of the Taylor for Congress Committee (the "Committee").

On December 16, 1991, the Commission found reason to believe that Taylor for Congress and James W. Parris, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6). On June 12, 1992, based on the response received from Mr. Parris, the Commission voted to take no further action against James W. Parris. On the same day, the Commission also found reason to believe that Shelia L. Shipley, as assistant treasurer and acting as treasurer of the Committee, violated 2 U.S.C. §§ 441a(f) and 434(a)(6). This Office notified the Committee of the Commission's actions and has subsequently sent numerous reminders; nevertheless, the Committee has not responded.

9304098524

In this brief, the General Counsel sets forth his position on the factual and legal issues in this matter, and sets forth his recommendation regarding whether there is probable cause to believe a violation has occurred. See, 11 C.F.R. § 111.16(a).

II. ANALYSIS

1. Excessive Contributions Received From Individuals

The Act provides that no individual shall make contributions to any candidate or his authorized committees with respect to any election for federal office that, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). This limitation applies separately with respect to each election. 2 U.S.C. § 441a(a)(6). The Act further provides that no candidate or political committee shall knowingly accept a contribution in violation of these provisions. 2 U.S.C. § 441a(f).

The regulations provide that, in a case of a contribution not designated in writing by the contributor for a particular election, the contribution will be applied to the contribution limitations for the next election for that Federal candidate. 11 C.F.R. § 110.1(b)(2)(ii). The regulations require that any contribution made by more than one person shall include the signature of each contributor on the check or in a separate writing. 11 C.F.R. § 110.1(k)(1). The regulations further provide that reattribution of a contribution to another contributor must be made in writing within sixty days of receipt of the contribution by the committee's treasurer. 11 C.F.R. § 110.1(k)(3)(ii)(B).

93040982525

The Primary Election in Tennessee was held on August 4, 1988, and the Special Primary Election on August 25, 1988. The General and Special General Elections were both held on November 8, 1988.[1] The Committee received excessive contributions, totaling $4,500, from three individuals.

The first individual contributor, Wade Till, made three contributions written on joint accounts. Only Wade Till's signature appeared on all three checks, and no further attributions were made. One of the checks, in the amount of $1,250, was dated September 13, 1988. The other two were dated October 4 and 29, 1988, and were for the amounts of $750 and $1,000 respectively, bringing the total to $3,000. As no designation was indicated on the checks, the Committee had to use the contributions for the next election. Thus, the September and October contributions had to be designated for the General and Special General Elections which were to occur simultaneously as the next election following those contributions. The Committee could, however, designate $1,000 to each of these two elections, as they occurred simultaneously as the "next election" following the contributions. On September 24, 1990, Wade and Rebecca Till provided a letter to the Committee which reattributed the remaining $1,000 to Mrs. Till. The reattribution was not made within the 60 days

9304098252 6

1. Dudley W. Taylor was a candidate in the 1988 election for the House of Representatives, Second District of Tennessee. Mr. Taylor was also simultaneously running in the Special Primary and Special General Elections to serve the remainder of the term of Rep. John J. Duncan who died on June 21, 1988.

allowed by the regulations. Therefore, the contribution by Mr. Till was excessive in the amount of $1,000.

The second individual contributor, James Rogers Carroll, made three contributions to the Committee, all drawn on a single-signatory account. There was no indication that the contributions represented a contribution from anyone other than the individual who signed the check. The dates and amounts of those contributions were: July 18, 1988 for $500; September 13, 1988 for $1,000; and October 17, 1988 for $1,500. As no designation was indicated on the checks, the Committee had to use the contributions for the next election. Thus, the July contribution had to be designated for the Primary Election, it being the next election. The September and October contributions had to be designated for the General and Special General Elections which were to occur simultaneously as the next election following those contributions. The Committee could, however, designate $1,000 to each of these two elections, as they occurred simultaneously as the "next election" following the contributions. On September 21, 1990, James and Dorothy Carroll provided a letter to the Committee which reattributed the remaining $500 to Mrs. Carroll. This reattribution was not made within the 60 days allowed by the regulations. Therefore, the contribution by Carroll was excessive in the amount of $500.

The third individual contributor, Jimmy C. Davis, contributed three checks which were not drawn on joint accounts. Two checks were dated July 18, 1988. One check was not dated. Each check was annotated with the name of a different

9304098527

individual, single contributor (e.g. "for Virginia Lois Davis"); however, only Jimmy C. Davis' signature appeared on the checks, and no further signatures were attached in a separate writing. One check, noted as a contribution by Jimmy Anthony Davis, was in the amount of $1,000. The other two checks, noted as contributions by Jim Davis and Virginia Lois Davis, were in the amount of $2,000 each, thus bringing the total to $5,000. Indications also appeared on the checks that the contributions were for the Primary and General elections.

As Jimmy C. Davis was the only signatory, and the contributions were designated by the contributor for the primary and general elections, $2,000 of the contributions was proper. On September 21, 1990 Jimmy C. and Lois Davis provided a letter to the Committee which redesignated the contributions so that $1,000 each was contributed to the Regular Primary Election, the Special Primary Election, the Regular General Election and the Special General Election. The letter further reattributed $1,000 to Mrs. Davis. The reattribution and redesignation were not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Thus, the contribution by Mr. Davis was excessive in the amount of $3,000.

Therefore, there is probable cause to believe that Taylor for Congress and Shelia L. Shipley, as assistant treasurer, violated 2 U.S.C. § 441a(f) by knowingly accepting $4,500 in excessive contributions from individuals.

9304098252 8

2. **Excessive Contributions for Retirement of Debt**

2 U.S.C. § 434(b)(8) requires that committees keep accurate records of "the amount and nature of outstanding debts and obligations owed by or to such political committees." Committees may accept contributions designated in writing for a particular election, but which are made after the designated election. 11 C.F.R. § 110.1(b)(3)(i). However, such contributions cannot exceed the net debts outstanding from the designated election. To the extent that the contributions do exceed the net debt outstanding, the committee can obtain a redesignation of the contributions to another election; however, the redesignation must be made within sixty days from receipt of the contributions. 11 C.F.R. § 110.1(b)(3)(i)(B).

Section 441a(a)(2)(A) limits to $5,000 the amount that any political committee can give to any candidate and his authorized committee per election. The Act further provides that no candidate or committee shall knowingly accept a contribution in violation of these provisions. 2 U.S.C. § 441a(f).

The Primary Election in Tennessee was held on August 4, 1988, and the Special Primary Election on August 25, 1988. The General and Special General Elections were both held on November 8, 1988. As of November 8, 1988, the date of the special general election, the Committee had no primary debt. The only debt remaining for the Committee was debt for the Special General Election in the amount of $9,985.30. After the primary, the Committee received contributions from three political committees, totaling $7,400, for the purpose of

9304098252 9

retiring debt from the primary election. Because the Committee had no primary debt, such contributions were in excess of remaining Committee debt.

The Tennessee Democratic Party (the "Party") made a $5,000 contribution to the Committee on November 1, 1988 for retirement of primary debt. The Party had previously contributed to the Committee $2,000 on October 31, 1988, and subsequently contributed $700 on November 2, 1988, and $1,200 on November 4, 1988, for a total of $3,900. Thus, a maximum of $1,100 of the November 1 contribution could be applied to the General Election because the contributor had only that amount remaining of its limitation for the General election. Therefore, the November 1, 1988 contribution was excessive by $3,900.

The United Steelworkers of America PAC ("USA-PAC") contributed $2,500 on November 2, 1988 to the Committee for retirement of primary debt. USA-PAC had previously contributed $2,500 on October 2, 1988 and $2,500 on October 26, 1988, for a total of $5,000. USA-PAC had already made maximum contributions to the General election. Because no primary debt existed, the entire November 2, 1988 contribution for $2,500 was excessive.

On February 24, 1989, Drive Political Action Committee ("DRIVE") made a $1,000 contribution to the Committee for retirement of primary debt. DRIVE had previously contributed $1,000 on October 7, 1988 and $4,000 on October 25, 1988, for a total of $5,000. DRIVE had already made maximum contributions to the General election. Because no primary debt existed, the February 24, 1989 contribution of $1,000 was excessive.

93040982530

Following the determination that no primary debt existed, the Committee submitted letters from the three political committees redesignating their primary debt contributions to the special general election. However, the redesignations, dated September 1990, were untimely. Therefore, there is probable cause to believe that Taylor for Congress and Shelia L. Shipley, as assistant treasurer, violated 2 U.S.C. § 441a(f) by accepting $7,400 in excessive contributions from the three committees.

3. Contributions Subject To 48-Hour Notification

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

The Primary Election in Tennessee was held on August 4, 1988, and the Special Primary Election on August 25, 1988. The General and Special General Elections were both held on November 8, 1988. Pursuant to the Act, the Respondents were

9304098253 1

required to notify the Commission, in writing, of all contributions of $1,000 or more received from July 15, 1988 through August 1, 1988, from August 5, 1988 through August 22, 1988, and from October 19, 1988 through November 5, 1988, within 48 hours of their receipt.

The Committee received eight contributions subject to the 48-hour notification rule of 11 C.F.R. § 104.5(f). These contributions, totaling $27,000, were deposited into the Committee's account, but no 48-hour notifications were filed with the Commission. The Committee claimed to be unaware of the 48-hour notification rule. After notice of such requirement, the Committee attempted to file the notifications.

The Committee stated that $20,000 was a loan from the candidate to his campaign. The remaining $7,000 derived from seven different individuals, each with a $1,000 contribution. The candidate explained that the Committee's treasurer had "removed himself from the loop early in the process, and the Assistant Treasurer, Shelia Shipley, was not aware of this requirement until after the Primary election, when she was notified as to this responsibility. She then apparently filed the appropriate notices for the General elections until her hospitalization for emergency surgery, and at that time, she was unaware that I was planning to make a loan."

The Act clearly provides that a committee must report all contributions of $1,000 or more which are received after the 20th day, but more than 48 hours before 12:01 A.M. of the day of the election, within 48 hours of receipt of the contribution.

9304098253 2

2 U.S.C. § 434(a)(6). For eight contributions, the Committee did not make such reports. Therefore, there is probable cause to believe that the Taylor for Congress Committee and Shelia L. Shipley, as assistant treasurer, violated 2 U.S.C. § 434(a)(6) by failing to file the required reports.

III. GENERAL COUNSEL'S RECOMMENDATION

Find probable cause to believe that Taylor for Congress and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

11/25/92
Date

Lawrence M. Noble
General Counsel

9304098253 3

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
Taylor for Congress	)	MUR 3422
and Shelia L. Shipley,	)	
as assistant treasurer and	)	
acting as treasurer	)	

SENSITIVE

GENERAL COUNSEL'S REPORT

I. STATEMENT OF THE CASE

On December 16, 1991, the Commission found reason to believe that Taylor for Congress (the "Committee") and James W. Parris, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6). On June 12, 1992, based on the response received from Mr. Parris, the Commission voted to take no further action against James W. Parris. On the same day, the Commission also found reason to believe that Shelia L. Shipley, as assistant treasurer and acting as treasurer of the Committee, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

On October 23, 1992, this Office closed the investigation of this matter. On November 27, 1992, a General Counsel's Brief was sent to Shelia Shipley in care of the candidate, Dudley Taylor, at his place of business. That mailing was returned because of an address change. On December 10, 1992, the General Counsel's Brief was sent to the new address.

This Office has not received a response to the Brief. Staff has attempted to contact Mr. Taylor by telephone on several occasions throughout January and February of 1993. Mr. Taylor has not returned any of those telephone calls. Although Mr. Taylor and Ms. Shipley were cooperative throughout

93040982534

the audit process, they have not been cooperative during the enforcement process. The analysis which follows is unchanged from that which appeared in the General Counsel's Brief, because Respondent refuses to respond.

II. **ANALYSIS**

1. **Excessive Contributions Received From Individuals**

The Act provides that no individual shall make contributions to any candidate or his authorized committees with respect to any election for federal office that, in the aggregate, exceed $1,000. 2 U.S.C. § 441a(a)(1)(A). This limitation applies separately with respect to each election. 2 U.S.C. § 441a(a)(6). The Act further provides that no candidate or political committee shall knowingly accept a contribution in violation of these provisions. 2 U.S.C. § 441a(f).

The Committee received excessive contributions, totaling $4,500, from three individuals. The first individual, Wade Till, made three contributions, written on joint accounts. Only Wade Till's signature appeared on all three checks, and no further indications were made. One of the checks, in the amount of $1,250, was dated September 13, 1988. The other two were dated October 4 and 29, 1988, and were for the amounts of $750 and $1,000, respectively. As no designation was indicated on the checks, and the General and Special General were to occur simultaneously as the next election following the contributions, the Committee could designate $1,000 to each election. On September 24, 1990, Wade and Rebecca Till reattributed the

9304098253 5

remaining $1,000 to Mrs. Till. The reattribution was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Till was excessive in the amount of $1,000.

The second individual, James Rogers Carroll, made three contributions to the Committee, all drawn on a single-signatory account. There was no indication that the contributions represented a contribution from someone other than the individual who signed the check. The dates and amounts of those contributions were: July 18, 1988 for $500; September 13, 1988 for $1,000; and October 17, 1988 for $1,500. As no designation was indicated on the checks, the Committee could attribute the contributions to the next election. Thus, the July contribution would be attributed to the Primary election, it being the next election. The General and Special General were to occur simultaneously as the next election following the September and October contributions; thus, the Committee could designate $1,000 to each election. On September 21, 1990, James and Dorothy Carroll reattributed the remaining $500 to Mrs. Carroll. This reattribution was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Carroll was excessive in the amount of $500.

The third individual, Jimmy C. Davis, contributed three checks which were not drawn on joint accounts. Two checks were dated July 18, 1988. One check was not dated. Each check was annotated with the name of a different individual, single contributor (e.g. "for Virginia Lois Davis"); however, only

9304098253 6

Jimmy C. Davis' signature appeared on the checks, and no further signatures were attached in a separate writing. One check, noted as a contribution by Jimmy Anthony Davis, was in the amount of $1,000. The other two checks, noted as contributions by Jim Davis and Virginia Lois Davis, were in the amount of $2,000 each. Indications also appeared on the checks that the contributions were for the Primary and General elections.

As Jimmy C. Davis was the only signatory, and the contributions were designated by the contributor for the primary and general elections, $2,000 of the contributions was proper. On September 21, 1990 Jimmy C. and Lois Davis reattributed to the Special Primary and Special General elections, and redesignated to Mrs. Davis, the remaining $3,000. This reattribution and redesignation was not made within the 60 days allowed by the regulations. 11 C.F.R. § 110.1(k)(3)(ii)(B). Therefore, the contribution by Davis was excessive in the amount of $3,000.

Therefore, this Office recommends that the Commission find probable cause to believe that Taylor for Congress and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. § 441a(f).

2. <u>Excessive Contributions for Retirement of Debt</u>

2 U.S.C. § 434(b)(8) requires that committees keep accurate records of "the amount and nature of outstanding debts and obligations owed by or to such political committees." Committees may accept contributions designated in writing for a particular election, but which are made after the designated

9304098253 7

election. 11 C.F.R. § 110.1(b)(3)(i). However, such contributions can not exceed the net debts outstanding from the designated election. To the extent that the contributions do exceed the net debt outstanding, the committee can redesignate the contributions to another election; however, the redesignation must be done within sixty days from receipt of the contributions. 11 C.F.R. § 110.1(b)(3)(i)(B).

The Committee received excessive contributions totaling $7,400 from three political committees. These contributions were made for the purpose of retiring debt that the Committee believed it had from the primary election. However, the contributions were made after the primary, and Audit has determined that the Committee had no primary debt.

Audit initially determined that the Committee had no net debts outstanding as of the dates of the Primary, Special Primary, and Special General elections. The Committee contended that it believed it had a primary debt, and submitted documentation to demonstrate that there was a primary debt. Based on the documentation submitted by the Committee, Audit recalculated the Committee's financial position as of November 8, 1988 (the date of the special general election), and determined that there was no primary debt, but that there was special general election debt in the amount of $9,985.30.

The Tennessee Democratic Party (the "Party") made a $5,000 contribution to the Committee on November 1, 1988. The Party had previously contributed $2,000 on October 31, 1988; $700 on November 2, 1988; and, $1,200 on November 4, 1988. Audit

9304098253 8

determined that only $1,100 of the November 1 contribution could be applied to the General Election because the contributor still had that amount remaining for its limit to the General election, which was the next election following the contribution. Thus, the contribution was excessive by $3,900.

The United Steelworkers of America PAC ("USA-PAC") contributed $2,500 on November 2, 1988 to the Committee. USA-PAC had previously contributed $2,500 on October 2, 1988 and $2,500 on October 26, 1988. On February 24, 1989, Drive Political Action Committee ("DRIVE") made a $1,000 contribution to the Committee. DRIVE had previously contributed $1,000 on October 7, 1988 and $4,000 on October 25, 1988. Both USA-PAC and DRIVE had already made maximum contributions to the General election. Because no primary debt existed, the entire final contribution for each ($2,500 for USA-PAC and $1,000 for DRIVE) was excessive.

Following the audit which determined that no primary debt existed, the Committee submitted letters from the three political committees, redesignating the contributions to the special general election. However, the redesignations, dated September 1990, were untimely. Therefore, this Office recommends that the Commission find probable cause to believe that Taylor for Congress and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. § 441a(f).

9304098253 9

3. Contributions Subject To 48-Hour Notification

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

The Primary was held on August 4, 1988, and the Special Primary on August 25, 1988. The General and Special General elections were both held on November 8, 1988. Pursuant to the Act, the Respondents were required to notify the Commission, in writing, of all contributions of $1,000 or more received from July 15, 1988 through August 1, 1988, from August 5, 1988 through August 22, 1988, and from October 19, 1988 through November 5, 1988, within 48 hours of their receipt.

The Audit review of contributions revealed eight contributions, subject to the 48-hour notification rule of 11 C.F.R. § 104.5(f). These contributions, totaling $27,000, were deposited into the Committee's account, but no 48-hour

93040982540

notification was filed with the Commission. The Committee spokesman stated that the Committee had been unaware of the 48-hour notification rule. After notice of such requirement, the Committee attempted to file the notifications. Audit recommended that the Committee provide evidence to demonstrate that it did not violate 11 C.F.R. § 104.5(f).

In response to the audit, the Committee stated that $20,000 was a loan from the candidate to his campaign. The remaining $7,000 derived from seven different individuals, each with a $1,000 contribution. The Committee explained that its Treasurer had "removed himself from the loop early in the process, and the Assistant Treasurer, Shelia Shipley, was not aware of this requirement until after the Primary election, when she was notified as to this responsibility. She then apparently filed the appropriate notices for the General elections until her hospitalization for emergency surgery, and at that time, she was unaware that I was planning to make a loan."

The Act clearly provides that a committee must report all contributions of $1000 or more which are received after the 20th day, but more than 48 hours before 12:01 A.M. of the day of the election, within 48 hours of receipt of the contribution. 2 U.S.C. § 434(a)(6). For eight contributions, the Committee did not make such reports. Therefore, this Office recommends that the Commission find probable cause to believe that the Taylor for Congress Committee and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. § 434(a)(6).

9304098254 1

III. DISCUSSION OF CONCILIATION AND CIVIL PENALTY

9304098254 2

V. GENERAL COUNSEL'S RECOMMENDATION

1. Find probable cause to believe that the Taylor for Congress Committee and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

2. Approve the attached conciliation agreement and appropriate letter.

4/2/93
Date

Lawrence M. Noble
General Counsel

Attachments:
1. Conciliation Agreement

Staff assigned: Tonda M. Mott

93040982543

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

MEMORANDUM

TO: LAWRENCE M. NOBLE
GENERAL COUNSEL

FROM: MARJORIE W. EMMONS/BONNIE J. ROSS
COMMISSION SECRETARY

DATE: APRIL 8, 1993

SUBJECT: MUR 3422 - WITHDRAWAL AND RECIRCULATION OF GENERAL COUNSEL'S REPORT AND PROPOSED CONCILIATION AGREEMENT DATED MARCH 23, 1993. MEMORANDUM FROM GENERAL COUNSEL DATED APRIL 2, 1993.

The above-captioned document was circulated to the Commission on Monday, April 5, 1993 at 11:00 a.m.

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

Commissioner Aikens	
Commissioner Elliott	XXX
Commissioner McDonald	
Commissioner McGarry	
Commissioner Potter	XXX
Commissioner Thomas	XXX

This matter will be placed on the meeting agenda for Tuesday, April 13, 1993.

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

93040982544

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 3422
Taylor for Congress	)	
and Shelia L. Shipley, as assistant	)	
treasurer and acting as treasurer	)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on April 13, 1993, do hereby certify that the Commission decided by a vote of 5-1 to take the following actions in MUR 3422:

1. Find probable cause to believe that the Taylor for Congress Committee and Shelia L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. § 441a(f) and 434(a)(6).

2. Approve the conciliation agreement and appropriate letter as recommended in the General Counsel's report dated April 2, 1993.

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

Attest:

4-15-93
Date

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

93040982545

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

APRIL 21, 1993

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Shelia L. Shipley, Assistant Treasurer
Taylor for Congress Committee
c/o Dudley W. Taylor
P.O. Box 835
Knoxville, Tennessee 37901

RE: MUR 3422

Dear Ms. Shipley:

On April 13, 1993, the Federal Election Commission found that there is probable cause to believe the Taylor for Congress Committee and you, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6), provisions of the Federal Election Campaign Act of 1971, as amended, in connection with the Committee's receipt of excessive contributions and failure to file 48-hour notifications of contributions received.

The Commission has a duty to attempt to correct such violations for a period of 30 to 90 days by informal methods of conference, conciliation, and persuasion, and by entering into a conciliation agreement with a respondent. If we are unable to reach an agreement during that period, the Commission may institute a civil suit in United States District Court and seek payment of a civil penalty.

Enclosed is a conciliation agreement that the Commission has approved in settlement of this matter. If you agree with the provisions of the enclosed agreement, please sign and return it, along with the civil penalty, to the Commission within ten days. I will then recommend that the Commission accept the agreement. Please make your check for the civil penalty payable to the Federal Election Commission.

93040982546

If you have any questions or suggestions for changes in the enclosed conciliation agreement, or if you wish to arrange a meeting in connection with a mutually satisfactory conciliation agreement, please contact Tonda M. Mott, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

Enclosure
Conciliation Agreement

9304098254 7

MUR # 3422

ADDITIONAL DOCUMENTS WILL BE ADDED TO THIS FILE AS THEY BECOME AVAILABLE. PLEASE CHECK FOR ADDITIONAL MICROFILM LOCATIONS.

93040982548

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3422

Date Filmed 10/27/93 Camera No.--- 2

Cameraman MC

9304098254 9

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

✓ Microfilm

_____ Public Rcds

_____ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3422.

12/10/93

9304354253

THE READER IS REFERRED TO ADDITIONAL MICROFILM LOCATIONS

FOR THE FOLLOWING DOCUMENTS PERTINENT TO THIS CASE

1. Memo, General Counsel to the Commission, dated September 22, 1992, Subject: Priority System Report. See Reel 354, pages 1590-94.

2. Memo, General Counsel to the Commission, dated April 14, 1993, Subject: Enforcement Priority System. See Reel 354, pages 1595-1620.

3. Certification of Commission vote, dated April 28, 1993. See Reel 354, pages 1621-22.

4. General Counsel's Report, In the Matter of Enforcement Priority, dated December 3, 1993. See Reel 354, pages 1623-1740.

5. Certification of Commission vote, dated December 9, 1993. See Reel 354, pages 1741-1746.

9304354254

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 10 1993

Shelia L. Shipley, Assistant Treasurer
Taylor for Congress Committee
c/o Dudley W. Taylor
P.O. Box 835
Knoxville, Tennessee 37901

RE: MUR 3422

Dear Ms. Shipley:

On April 21, 1993, you were notified that the Federal Election Commission had found probable cause to believe the Taylor for Congress Committee and you as assistant treasurer and acting as treasurer violated 2 U.S.C. §§ 441a(f) and 434(a)(6).

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the Committee and you. See, attached narrative. Accordingly, the Commission closed its file in this matter.

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

If you have any questions, please contact me at (202) 219-3400.

Sincerely,

Tonda M. Mott

Attachment
Narrative

Date the Commission voted to close the file: DEC 09 1993

93043542555

MUR 3422
TAYLOR FOR CONGRESS

The Commission found reason to believe that Taylor for Congress and James W. Parris, as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6). Subsequently the Commission voted to take no further action against James Parris, but made the same reason to believe findings against Sheila L. Shipley, as assistant treasurer and acting treasurer of the Committee. The violations involved receipt of approximately $12,000 in excessive contributions and $27,000 in 48-hour violations. This Office closed its investigation in October 1992. On April 13, 1993, the Commission found probable cause to believe that Taylor for Congress and Sheila L. Shipley, as assistant treasurer and acting as treasurer, violated 2 U.S.C. §§ 441a(f) and 434(a)(6). Neither Mr. Taylor nor Ms. Shipley have responded to the probable cause brief, the probable cause finding, or numerous subsequent attempts at communication.

The events had little or no impact on the process; there was no significant issue relative to the other issues pending before the Commission; there were no substantial amounts of money involved; and the players were inexperienced. Moreover, it does not appear that respondents had a serious intent to violate the Federal Election Campaign Act of 1971, as amended.

9304354255 6

FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

✓ Microfilm

_____ Public Rcds

_____ Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3430.

12/10/93

9304354255 7

THE READER IS REFERRED TO ADDITIONAL MICROFILM LOCATIONS

FOR THE FOLLOWING DOCUMENTS PERTINENT TO THIS CASE

1. Memo, General Counsel to the Commission, dated September 22, 1992, Subject: Priority System Report. See Reel 354, pages 1590-94.

2. Memo, General Counsel to the Commission, dated April 14, 1993, Subject: Enforcement Priority System. See Reel 354, pages 1595-1620.

3. Certification of Commission vote, dated April 28, 1993. See Reel 354, pages 1621-22.

4. General Counsel's Report, In the Matter of Enforcement Priority, dated December 3, 1993. See Reel 354, pages 1623-1740.

5. Certification of Commission vote, dated December 9, 1993. See Reel 354, pages 1741-1746.

9304354255 8

FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 10 1993

David Forsyth
Doherty, Alex & Tadano
1717 East Bell Road
Phoenix, Arizona 85022

RE: MUR 3430
John T. Wrzesinski for Congress Committee and
David Wayne, as treasurer

Dear Mr. Forsyth:

On October 18, 1991, the John T. Wrzesinski for Congress Committee and David Wayne, as treasurer, were notified that the Federal Election Commission had found reason to believe they violated 2 U.S.C. §§ 434(b)(3)(E), 434(b)(2)(G), and 434(b)(8) and 11 C.F.R. § 104.11(a). On September 18, 1992, you submitted a response to the Commission's reason to believe findings on behalf of your clients.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no further action against the John T. Wrzesinski for Congress Committee and David Wayne, as treasurer. Accordingly, the Commission closed its file in this matter.

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

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

Sincerely,

Deborah L. Rice

Deborah L. Rice
Staff Member

Attachment
Narrative

Date the Commission voted to close the file: DEC 09 1993

93043542559

MUR 3430
John T. Wrzesinski for Congress Committee

This matter was generated by a referral from the Reports Analysis Division. The John T. Wrzesinski for Congress Committee failed to disclose the source of three candidate loans totaling $62,500 and failed to report continuously $76,100 in candidate loans. The Commission found reason to believe that the John T. Wrzesinski for Congress Committee and David Wayne, as treasurer, violated 2 U.S.C. §§ 434(b)(3)(E), 434(b)(2)(G), and 434(b)(8), and 11 C.F.R. § 104.11(a).

This matter involves a first time candidacy and no significant issues relative to the other issues pending before the Commission. Furthermore, the transactions had little impact on the electoral process, and there is no indication of any serious intent by Respondents to violate the FECA.

9304354256 0