FEDERAL ELECTION COMMISSION
WASHINGTON D.C. 20463

THIS IS THE BEGINNING OF MUR # 3544

DATE FILMED 10/28/93 CAMERA NO. 2

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

June 12, 1992

MEMORANDUM

TO: LAWRENCE NOBLE
GENERAL COUNSEL

THROUGH: JOHN C. SURINA
STAFF DIRECTOR

FROM: ROBERT J. COSTA
ASSISTANT STAFF DIRECTOR
AUDIT DIVISION

SUBJECT: WILLIAMS FOR CONGRESS - MATTERS REFERABLE

Attached please find at Exhibits A through F, matters concerning Williams for Congress which were approved by the Commission on June 11, 1992, for referral to your office.

Should you have any questions please contact Tom Nurthen or Rick Halter at 219-3720.

Attachments:

Exhibit A - Receipt of Apparent Excessive Contributions
Exhibit B - Receipt of Apparent Prohibited Contributions
Exhibit C - Misstatement of Financial Activity
Exhibit D - Itemization of Disbursements
Exhibit E - Itemization of Receipts
Exhibit F - Excessive Contribution Made by the Committee
Committee Response to the Interim Audit Report

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Receipt of Apparent Excessive Contributions

Section 441a(a)(1)(A) of Title 2 of the United States Code states that no person shall make contributions to any candidate and his authorized political committees with respect to any election for Federal office which, in the aggregate, exceed $1,000.

Section 103.3(b)(3) of Title 11 of the Code of Federal Regulations states, that contributions which on their face exceed the contribution limitations set forth in 11 CFR 110.1 and 110.2 and contributions which do not appear to be excessive on their face, but which exceed the contributions limits when aggregated with other contributions from the same contributor, may be either deposited into a campaign depository under 11 CFR 103.3(a) or returned to the contributor. If any such contribution is deposited, the treasurer may request redesignation or reattribution of the contribution by the contributor in accordance with 11 CFR 110.1(b) or 110.1(k), as appropriate. If redesignation or reattribution is not obtained, the treasurer shall within sixty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.1/

The Audit staff's review of contributions received from political committees/organizations and individuals indicated that 10 contributors exceeded their limitation by $19,400. It should be noted that the Committee refunded one of the excessive contributions in the amount of $3,900, however, the refund was not made timely in accordance with 11 C.F.R. §103.3(b)(3).

A schedule of excessive contributions was provided to the Committee. The Candidate expressed a willingness to resolve the matter.2/

The Audit staff recommended that, within 30 calendar days of service of this report, the Committee demonstrate that the contributions, which have not been refunded, were not excessive or refund $15,500 ($19,400 - $3,900) to the contributors and present evidence of such refunds (copies of the front and back of the negotiated refund checks).

1/ The excessive contributions were received subsequent to April 8, 1987, the effective date of the above cited regulations.

2/ Due to illness, the treasurer was not available during the audit.

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In its response to the interim audit report, the Treasurer stated that "we have reimbursed all excessive contributions I had reason to believe were excessive. The only reason the refunds made were not timely in accordance with 11 CFR 103.3(b)(3) is that we had no reason to believe the contributors had made excessive contributions. It was reimbursed as soon as the matter was brought to our attention. We have no knowledge of other excessive contributions."

It is our opinion that the Committee has not complied with the recommendation. The Committee has not demonstrated that excessive contributions, totaling $15,500, were not excessive, nor has it provided evidence that the excessive contributions were refunded.3/

Recommendation #1

The Audit staff recommends that this matter be referred to the Commission's Office of General Counsel.

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3/ It appears that the refund referred to by the Treasurer is the $3,900 noted above, as opposed to additional refunds made in response to the interim audit report.

Receipt of Apparent Prohibited Contributions

Section 441b(a) of Title 2 of the United States Code states, in part, that it is unlawful for any corporation or labor organization to make a contribution or expenditure in connection with any election to any political office, and further states that it is unlawful for a candidate, political committee or other person to knowingly accept or receive any contribution prohibited by this section.

Section 103.3(b)(1) of Title 11 of the Code of Federal Regulations states, in part, that the contributions that present questions as to whether they were made by corporations or labor organization may be, within ten days of the treasurer's receipt, either deposited into a campaign depository under 11 CFR 103.3(a) or returned to the contributor. If any such contribution is deposited, the treasurer shall make his or her best efforts to determine the legality of the contribution. If the contribution cannot be determined to be legal, the treasurer shall, within thirty days of the treasurer's receipt of the contribution, refund the contribution to the contributor.

The Audit staff's review of contributions revealed that the Committee received 22 contributions, totaling $9,493.16, from apparent prohibited sources. Twenty-one of the contributions were received from apparent corporate entities and one contribution was received from an apparent labor organization. It should be noted that the Committee refunded eight of the contributions, totaling $670, however, such refunds were not made timely.

In addition, on November 8, 1988, the Committee loaned $20,000 to Louisiana Voter Education Registration Action (LAVERA). LAVERA is not registered with the Federal Election Commission as a political committee. On December 1, 1988, the Committee received and deposited a repayment of $10,000 from LAVERA.1/ The Candidate stated that a formal loan agreement did not exist between the Committee and LAVERA.

It is the opinion of the Audit staff that since Louisiana law allows corporations and labor organizations to contribute to such organizations the funds used to repay this loan may have originated from an account which contained funds prohibited for use in federal elections.

1/ The Committee reported receiving an additional $10,000 repayment from LAVERA on June 1, 1989.

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Finally, the Committee received 45 contributions totaling $19,134,2/ from non-registered organizations whose accounts may have also contained funds prohibited for use in federal elections.

The Committee was provided schedules detailing the $38,627.16 ($9,493.16 + 10,000 + 19,134) prohibited contributions. The Candidate stated she was not aware of these contributions.

The Audit staff recommended that within 30 days of the service of this report the Committee take the following action:

- demonstrate that the contributions, which have not been refunded, were not received from prohibited sources or refund $8,823.16 ($9,493.16 - 670) to the 14 (22 - 8) contributors and provide evidence of such refunds (copies of the front and back of the negotiated refund checks).

- provide evidence that the contributions received from non-registered organizations as well as the loan repayments from LAVERA did not originate from accounts which contained funds prohibited by the Act or refund $19,134 to the 45 contributing organizations and $10,000 to LAVERA (see footnote 1), and provide evidence, as detailed above, supporting such refunds.

In response to the interim audit report, the Treasurer states that with respect to the 22 contributions, totaling $9,493.16, received from apparent prohibited sources (corporations and a labor union) the Committee had "no knowledge of receiving contributions from apparently prohibited sources, other than the ones we have already refunded."3/

With respect to the Committee's loan ($20,000) to LAVERA, the Treasurer states that "the candidate, from her

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2/ Included in this amount is a $1,400 contribution from a non-registered organization. The apparent excessive portion of this contribution ($400) is included in Exhibit A. The disposition of this matter (with respect to Recommendation #2) may effect the amount to be refunded at Recommendation #1.

3/ It appears that the refunds referred to by the Treasurer are those noted by the Audit staff (8 @ $670), as opposed to additional refunds made in response to the interim audit report.

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personal account at Rapides Bank and Trust Company in Alexandria, Louisiana made a loan to LAVERA to repay the money owed by LAVERA to the Committee. No corporate or otherwise prohibited funds were used to repay the Committee." In addition, the Candidate submitted a signed statement attesting to the above.

It should be noted that the matter was discussed with the Candidate, including the fact that LAVERA had repaid $10,000. Further, it was noted that 19 days prior to the entrance conference LAVERA repaid the final $10,000 to the Committee. It should be noted that the entrance conference and exit conference were held with the Candidate and at no time did the Candidate state that she had loaned money to LAVERA in order for LAVERA to repay the Committee. In addition, the Committee did not provide documentation (copy of canceled check(s) to LAVERA, etc.) to support its position.

Finally, with respect to the 45 contributions, totaling $19,134, from non-registered organizations whose accounts may have contained funds prohibited for use in federal elections, the Treasurer stated we have no reason to believe the 45 unidentified contributions were from prohibited sources.

As previously stated, the Committee was provided schedules detailing the apparent prohibited contributions. Further, the Committee did not contact the Audit Division during its response period to request the above mentioned schedules. It is our opinion that the Committee has not complied with the stated recommendations.

Recommendation #2

The Audit staff recommends that these matters be referred to the Commission's Office of General Counsel.

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Misstatement of Financial Activity

Sections 434(b)(2) and (4) of Title 2 of the United States Code state that each report shall disclose, for the report period and calendar year, the total amount of all receipts and disbursements.

The Audit staff's reconciliation of reported financial activity to bank activity for calendar year 1988 revealed that the Committee overstated receipts by $9,704.31, understated disbursements by $13,058.33, and overstated cash on hand at December 31, 1988 by $21,093.86.1/ The reported activity for calendar year 1987 was materially correct.

The overstatement of receipts ($9,704.31) resulted from the following errors: contributions from political committees ($7,750) and individuals ($250) for which the incorrect amount was reported (net over-reporting), and an unidentified over-reporting of $1,704.31.

The understatement of disbursements ($13,058.33) resulted from the following omissions/errors: disbursements totaling $23,494.03 were not reported (see Exhibit D), disbursements for which the incorrect amount was reported, ($11,014.29 net over-reporting), and an unidentified under-reporting of $578.59.

At the exit conference, the Audit staff provided copies of workpapers detailing the above errors. The Candidate expressed a willingness to file the necessary amendments.

The Audit staff recommended that, within 30 calendar days of service of this report, the Committee file a comprehensive amendment for the calendar year 1988 to correct the public record.

In response to the interim audit report, the Treasurer filed a signed statement (see Attachment 1) which he states serves as an amendment for the period ending December 31, 1988.

It is our opinion that the statement in itself does not comply with the recommendation nor does it clarify the public record. Further, the statement is not correct. For example, the interim audit report states the disbursements were

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1/ The overstated cash on hand ($21,093.86), for the most part, was a direct result of the misstatements relative to receipts and disbursements.

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understated by $13,058.33. The statement filed by the Treasurer erroneously states that disbursements were overstated by $13,058.33.

Recommendation #3

The Audit staff recommends that this matter be referred to the Commission's Office of General Counsel.

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ATTACHMENT 1

May 5, 1992

Federal Election Commission
Washington, D.C. 20463

Re: FEC ID# 115894

Please find below an amendment to the Williams for Congress report for the period ending December 31, 1988. As found by the FEC Audit:

Overstated receipts on hand -- $9,704.31
Overstated cash on hand -- $21,093.86
Overstated disbursements -- $13,058.33

Sincerely,

Vernon Williams, Jr.
Treasurer
Williams for Congress

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Itemization of Disbursements

Section 434(b)(5)(A) of Title 2 of the United States Code states, in part, that each report shall disclose name and address of each person to whom an expenditure in an aggregate amount or value in excess of $200 within the calendar year is made by the reporting committee to meet a candidate or committee operating expense, together with the date, amount, and purpose of such operating expenditure.

During our review of disbursements, the Audit staff identified eighty-five expenditures, totaling $23,494.03, which were not reported by the Committee. Included in this amount were thirty expenditures, totaling $21,676.07, required to be itemized on the Committee's reports, as each expenditure was either in excess of $200 or aggregated in excess of $200.

At the exit conference, the Audit staff provided the Committee with schedules detailing these expenditures. The Candidate expressed a willingness to file amended reports to itemize this activity.

The Audit staff recommended that the Committee, within 30 calendar days of service of this report, include in the comprehensive amendment (recommended at Exhibit C) Schedules B itemizing the thirty expenditures noted above.

In response to the interim audit report, the Treasurer stated that the Committee has no knowledge of the expenditures in question, but the Committee has "substantially complied to the best of our ability with providing dates, amounts and purposes of expenditures."1/

It is the opinion of the Audit staff that the Committee's response does not comply with the interim audit report recommendation, as disbursements, totaling $23,494.03, have yet to be disclosed on the public record.

Recommendation #4

The Audit staff recommends that this matter be referred to the Commission's Office of General Counsel.

1/ It appears that the Treasurer is referring to the Committee's original filings, since no Schedules B were filed in response to the interim audit report.

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Itemization of Receipts

Section 434(b)(3)(A) of Title 2 of the United States Code states that each report shall disclose the identification of each person (other than a political committee) who makes a contribution to the reporting committee during the reporting period, whose contribution or contributions have an aggregate amount or value in excess of $200 within the calendar year, together with the date and amount of any such contribution.

Section 434(b)(3)(B) of Title 2 of the United States Code states that each report shall disclose the identification of each political committee which makes a contribution to the reporting committee during the reporting period, together with the date and amount of any such contribution.

1. From Individuals

In its review of receipts, the Audit staff identified twenty-one contributions, totaling $8,510, which were either in excess of or aggregating in excess of $200 during the calendar year and were not itemized on the Committee's disclosure reports.

2. From Political Committees

The Audit staff also identified forty-one (direct) contributions totaling $19,270, and sixty in-kind contributions, totaling $12,303.61, which were not itemized on the Committee's disclosure reports.

At the exit conference, schedules detailing the above contributions were provided to the Committee. The Candidate expressed a willingness to file amended reports to itemize the above contributions.

The Audit staff recommended that, within 30 calendar days of service of this report, the Committee include in the comprehensive amendment (recommended at Exhibit C) itemization for the contributions noted at E.1. and E.2. above.

In response to the interim audit report, the Treasurer stated that the Committee has no knowledge of the contributions

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in question, but the Committee has substantially complied to the best of its ability providing dates and sources of contributions.1/

It is the opinion of the Audit staff that the Committee's response does not comply with the interim audit report recommendation since the above mentioned contributions are not disclosed on the public record.

Recommendation #5

The Audit staff recommends that this matter be referred to the Commission's Office of General Counsel.

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1/ It appears that the Treasurer is referring to the Committee's original filings, since no amended reports were filed in response to the interim audit report.

Excessive Contribution Made By The Committee

Section 441a(a)(1)(C) of Title 2 of the United States Code states that no person shall make contributions to any other political committee in any calendar year, which in the aggregate, exceed $5,000.

The Committee made two contributions, totaling $7,500, to a political committee. The contributions were made on September 28, 1988 ($5,000) and September 29, 1988 ($2,500). On March 6, 1989 the Committee's Treasurer, by letter, requested a refund of $2,500. The Committee had not received a refund at the close of the fieldwork, nor has it reported receiving the refund as of the filing of its 1991 mid-year disclosure report.

The Audit staff recommended that, within 30 calendar days of service of this report, the Committee demonstrate that it has received a refund of $2,500 by submitting a copy of the refund check or evidence that the refund was received and deposited into the Committee's depository, or disclose a debt owed to the Committee until such refund is received.

In response to the interim audit report, the Treasurer states that "we are unable to respond to II.F. without further explanation of what is required of the Committee. The record in question is not available."

It is the opinion of the Audit staff that the recommendation is very clear as to what action was required and the Committee's response does not comply with that recommendation.

Recommendation #6

The Audit staff recommends that this matter be referred to the Commission's Office of General Counsel.

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MUR # 3544

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

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3544

DATE FILMED 10/28/93 CAMERA NO. 2

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FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

✓ Microfilm

Public Rcds

Press

THE FOLLOWING DOCUMENTATION IS ADDED TO

THE PUBLIC RECORD IN CLOSED MUR 3544.

12/10/93

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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.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

DEC 10 1993

Vernon Williams, Jr., Treasurer
Williams for Congress
4206 Third Street
Alexandria, Louisiana 71302

RE: MUR 3544

Dear Mr. Williams:

This is in reference to the matter involving the audit of the Williams for Congress Committee.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against Williams for Congress and Vernon Williams, Jr., as treasurer.

Accordingly, the Commission closed its file in this matter. This matter will become a part of the public record within 30 days.

If you have any questions, please contact Richard M. Denholm II, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: Lois G. Lerner
Associate General Counsel

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

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