LCC # 1121

UNITED STATES ATTORNEY
MIDDLE DISTRICT OF TENNESSEE
879 U. S. COURTHOUSE
P. O. BOX 800
NASHVILLE, TENNESSEE 37202

FEDERAL ELECTION COMMISSION
'77 AUG 10 AM 10:29

August 8, 1977

772367

Mr. William C. Oldaker
General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D. C. 20463

Re: Political contributions by Commerce Union Bank and Tennessee Valley Bancorp
Your Re: MUR 383 (77)

Dear Mr. Oldaker:

Thank you for your letter of August 1, 1977 and the enclosed items. We appreciate your advising us that your inquiry has been completed and that the file on this matter has been made public.

In view of this situation, and because our immediate problem is one of insufficient information, we would be very pleased to have made available to us all the information contained in your file. Please advise us of the most expeditious manner in which this may be accomplished.

Sincerely,

HAL D. HARDIN
United States Attorney

Richard L. Windsor

BY: RICHARD L. WINDSOR
Assistant United States Attorney

RLW/pwj

cc: Judy Browning
Attorney
Federal Election Commission
1325 K. Street, N.W.
Washington, D. C. 20463

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UNITED STATES ATTORNEY
879 U. S. COURTHOUSE
[redacted]
NASHVILLE, TENNESSEE ~~37202~~ 37203

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DEPARTMENT OF JUSTICE
JUS-431

U.S.MAIL

Mr. William C. Oldaker
General Counsel
Federal Election Commission
1325 K. Street, N.W.
Washington, D. C. 20463

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

GC Mail 383

PS Form 3811, Mar. 1978

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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  Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

WF Earthman, Tennessee Valley
Bancorp, Inc. Nash., Tenn.

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	943724	

(Always obtain signature of addressee or agent)

I have received the article described above.
SIGNATURE ☐ Addressee ☐ Authorized agent

4. DATE OF DELIVERY AUG 4 1978

UPTOWN NASHVILLE STA
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NASHVILLE USPO

5. ADDRESS (Complete only if requested)

6. UNABLE TO DELIVER BECAUSE:

CLERK'S INITIALS

☆ GPO: 1978—O-263-498

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FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

August 1, 1977

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. William F. Earthman
Tennessee Valley Bancorp, Inc.
400 Union Street
Nashville, Tennessee 37219

Re: MUR 383 (77)

Dear Mr. Earthman:

On July 28, 1977, the Commission voted to terminate its inquiry into alleged violations of the Federal Election Campaign laws by the Tennessee Valley Bancorp, Inc. and Commerce Union Bank. Accordingly, the Commission intends to close its file on this matter.

If you have any questions, please contact Judy Browning (telephone No. 202/523-4075), the attorney assigned to this matter.

Sincerely yours,

William C. Oldaker
General Counsel

cc: Mr. Mitchell Rogovin
1730 Rhode Island Avenue, N.W.
Washington, D.C. 20036

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OFFICE OF GENERAL COUNSEL

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

August 1, 1977

Hal Hardin
U.S. Attorneys Office
Box 22800
Nashville, Tennessee 37202

Re: MUR 383 (77)

Dear Mr. Hardin:

I am writing to you concerning a matter which the Commission recently investigated, and about which you had a conversation with one of our attorneys, Judy Browning on July 19, 1977.

Ms. Browning spoke with you concerning any inquiry your office may have made into alleged illegal political contributions made by officers of Commerce Union Bank and Tennessee Valley Bancorp over the period 1971-1976. You indicate you would like to see a copy of the Bank's response to the Commission's request for information.

Since we have completed our inquiry, and the file on this matter has been made public, I am forwarding to you a copy of the letter you requested. If you have any further questions, please contact Judy Browning (phone No. 202/523-4075).

Sincerely yours,

William C. Oldaker
General Counsel

Enclosure

cc: Richard Windsor
U.S. Attorney's Office
Box 22800
Nashville, Tennessee 37202

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 383 (77)
Commerce Union Bank	)	
Tennessee Valley Bancorp, Inc.	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on July 28, 1977, the Commission determined by a vote of 6-0 to find No Reasonable Cause to Believe a violation of the Federal Election Campaign Act has been violated in the above-captioned matter.

Accordingly, the file in this matter has been closed.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

July 21, 1977

MEMORANDUM TO: Marjorie Emmons

FROM: Elissa T. Garr

SUBJECT: MUR 383 (77)

Please have the attached General Counsel's Report on MUR 383 (77) distributed to the Commission and placed on the Compliance agenda for the Commission meeting of July 28, 1977.

Thank you.

7704003176 0

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	
	)	MUR 383(77)
Commerce Union Bank,	)	
Tennessee Valley Bancorp, Inc.	)	

GENERAL COUNSEL'S REPORT

I. Allegation

This matter involves the question of whether Commerce Union Bank violated 2 U.S.C. s.441b by contributing to federal candidates over the period 1971-1976. Tennessee Valley Bancorp was named as respondent because it wholly owns Commerce Union Bank, and its officers were instrumental in the making of the questionable contributions.

II. Commission Action

On June 28, 1977, the Commission approved a recommendation to find reason to believe that a 2 U.S.C. s.441b violation had occurred with respect to any bank contributions made to federal candidates after summer, 1974. A notification letter was sent to William Earthman, Board Chairman of both respondents on June 29, 1977, and a response was received by the Commission on July 8, 1977.

III. Evidence

On March 15, 1977, the Tennessee Valley Bancorp disclosed in a report filed with the Securities and Exchange Commission that it had channeled about $83,000 to more than twenty-five Tennessee politicians over a five-year period, most of it from slush funds controlled by its chairman and president. The money

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

was channeled primarily through "nonaccountable expense accounts" established in the names of Commerce Union vice presidents. In addition, some political contributions were made from loans to Commerce Union employees who were then awarded bonuses to pay off the loans.

According to the report filed with the S.E.C., approximately 85% of the $83,000 contributed over the five-year period was given to non-federal candidates. It was not clear from the report on what dates any contributions to federal candidates were made or what amounts were involved.

On July 8, 1977, this Commission received information from Mitchell Rogovin, counsel to the Tennessee Valley Bancorp's special committee that investigated the contributions and issued the report filed with the S.E.C. Mr. Rogovin had no prior relationship with Bancorp or its subsidiaries.

Rogovin's letter included a schedule setting forth the uses of that portion of the $83,000 which appears to have been disbursed during the period in which prosecution is not barred by 2 U.S.C. s.455, i.e., 1974-1976. The schedule shows no funds expended during that period for federal candidates or to organizations supporting federal candidates. This information is based on informal records kept by secretaries who maintained the checkbooks for the accounts from which many of the questionable contributions were made, and interviews with other bank employees who might have had relevant information. F.E.C. and Common Cause records were also reviewed to see whether any

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OFFICE OF GENERAL COUNSEL

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contributions to federal candidates in the 1974 election were made by respondents' personnel. Our own review of the 1976 reports showed no contributions to Tennessee congressional candidates from respondents' officers.

IV. Legal Analysis and Recommendation

The information provided by respondent's counsel for the period 1974-1976 appears to rebut the allegation that a 2 U.S.C. s.441b violation has occurred within the last three years. This information was supplied to the Commission by an attorney whose law firm conducted the independent investigation required by the S.E.C. that led to the revelations of questionable campaign contributions.

The fact that no bank officers were listed as contributors on Tennessee congressional candidates' reports for the 1976 election also lends support to respondents' contention that no federal contributions were made in the last three years.

It is recommended that the Commission find no reasonable cause to believe that the Act has been violated and that this file be closed.

7/21/77
DATE

WILLIAM C. OLDAKER
GENERAL COUNSEL

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OFFICE OF GENERAL COUNSEL

GCC 846

RECEIVED
FEDERAL ELECTION
COMMISSION
'77 JUL 8 AM 10:34

ROGOVIN, STERN & HUGE
1730 RHODE ISLAND AVENUE, N. W.
WASHINGTON, D. C. 20036
TELEPHONE (202) 296-5820

July 6, 1977

772042

Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

ATTENTION: Judy Browning

RE: Tennessee Valley Bancorp, Inc.
Your Ref: MUR383(77)

Dear Ms. Browning:

This is in response to the June 29, 1977 letter sent by the Federal Election Commission's general counsel to our client, Tennessee Valley Bancorp, Inc., in which the Commission indicated that it "has determined that there is reason to believe that Tennessee Valley Bancorp, Inc., and Commerce Union Bank have violated 2 U.S.C. § 441(b)". We believe such a determination is in error in that the three-year statute of limitations provided for in 2 U.S.C. § 455 has expired.

This law firm was retained on November 16, 1976 to serve as counsel to a Special Committee appointed by the Board of Directors of Tennessee Valley Bancorp, Inc., and conducted the investigation that led to the revelation of the materials reported in TVB's Form 8-K of March 15, 1977.

The attached schedule sets forth the uses of the portion of the $83,000 reported in TVB's March 15, 1977 Form 8-K that appears to have been disbursed during the period that remained open under the applicable statute of limitations for 2 U.S.C. § 441(b). As you can see, our present information leads us to believe that none of the funds expended during this period went to candidates for federal elections or to organizations established to support such candidates. The United States Attorney for the Middle District of Tennessee, who inquired into this matter in

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OFFICE OF GENERAL COUNSEL

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April of 1977, reached the same conclusion and therefore recommended that no action be pursued.

Our identification of the probable recipients of the contributions stems from various sources. First, informal records were kept by the secretaries who maintained the checkbooks for the four non-accountable expense accounts from which many of the contributions were made. An examination of those records and interviews of the secretaries have enabled us to identify with reasonable certainty most of the expenditures made from those accounts from 1971 to 1974. In addition, we have attempted to supplement that information with interviews of other persons. We also reviewed the records of the Federal Election Commission and Common Cause in Washington, D.C. to ascertain whether any contributions to Federal candidates in the 1974 elections in Tennessee were attributed to TVB personnel. With one exception that we have determined was not related to contributions made from the sums reported in the TVB disclosure, the filings do not reveal the names of TVB personnel. Finally, in some instances, we have made contact with candidates or their representatives. In some of those cases, our conclusions regarding their receipt of CUB funds have been supported by the candidates' return of money we believed was contributed from CUB funds. Candidates who have returned money or who have indicated an intention to do so are identified in the attached enclosure by asterisks. In our view, the results of these inquiries support our belief that no federal contributions were made from these funds during the period in question.

We do not believe that our identification of the recipients of these monies is or ever will be perfect because of the pucity of written records. However, we do feel that we have thoroughly considered whether federal contributions were made from these funds and that further efforts to inquire into the subject would reveal nothing that we have not discovered.

You have asked for an itemized list of all contributions to all political candidates for the dates included in the report. Because we believe the statute of limitations

has expired with respect to federal campaigns, we respectfully decline to forward the specific information relating to non-Federal elections for the three-year period currently open under the statute of limitations. You have also asked for a copy of any report that TVB may have issued since March 15, 1977, disclosing additional facts found by the Special Committee. No additional report has been made since March 15, 1977.

If I may be of any further assistance with respect to this matter, please feel free to call me.

Sincerely,

Mitchell Rogovin

Mitchell Rogovin

CC: Mr. Earthman
Attachment

7704117755

FEDERAL ELECTION COMMISSION
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[illegible]

III. Other Expenditures from Proceeds of 1975 Bonuses

A.	Apparent contributions to candidates for State or local office:		$ 8,300.00 to $ 8,500.00
	Candidate for Governor	$ 1,000.00	
B.	Repayment of 1974 loans*		$10,500.00
C.	Payments for income tax liability incurred in 1974		$ 1,921.00
D.	Payment to individual for his service in monitoring progress of bill in 1974 state legislature		$ 800.00 to $ 1,000.00
E.	Purchase of tickets to Governor's Gala Ball		$ 1,000.00

IV. Subsequent Expenditures from New Loans Repaid from 1976 Bonuses

A.	Apparent 1975 contributions to candidates for State or local office:		$ 2,500.00
	Candidate for Mayor**	$ 2,500.00	
B.	Other possible contributions to candidates for State and local office or expenditures:		$ 1,600.00

*As is indicated in footnote 8 to the March 15th Form 8-K, one $5,000 loan was repaid through a separate bonus and is not included in this figure.

**Candidate has returned the money or indicated his intention to do so.

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EXPENDITURES

I. Expenditures from the Four Non-Accountable Expense Accounts

A. Apparent contributions to candidates for State or local office: $ 9,750.00*

Candidate for Governor**	$ 2,700.00
Candidate for Governor	4,000.00
Candidate for County Trustee	1,000.00
Candidate for District Attorney**	300.00
Local attorney, who was fund-raising for local candidate	100.00
Candidate for state legislature	100.00
State fundraising dinner	1,350.00
CUB employee, who contributed to local candidates	200.00
	$ 9,750.00

B. Other 1974 Expenditures from Accounts: $ 10,576.99

Repayment of 1973 loan related to 1973 contribution to candidate for Governor	$ 4,069.63
Payments for income tax liability incurred in 1973	$ 6,407.36
Charitable Contributions	$ 100.00
	$10,576.99

II. Additional Expenditures from Loans Taken Out in 1974

A. Apparent contributions to candidates for State or local office: $15,000.00

*Of this amount, $7,500 appears to have been contributed prior to April 1, 1974.

**Candidate has returned the money or indicate his intention to do so.

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OFFICE OF GENERAL COUNSEL

ROGOVIN, STERN & HUGE

1730 RHODE ISLAND AVENUE, N. W.

WASHINGTON, D. C. 20036

Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

ATTENTION: Judy Browning

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OFFICE OF GENERAL COUNSEL

FEDERAL ELECTION COMMISSION

[illegible]
[illegible]

June 29, 1977

[illegible]
[illegible] Treasurer

[illegible] Northern
[illegible] Life Bancorp, Inc.
[illegible]
[illegible], Tennessee 37219

Re: MUR 381(77)

[illegible] Northern:

This letter is to notify you that on the basis of a [illegible] June [illegible], 1977, and submitted to the Commission [illegible] Commission, the Federal Election Commission has [illegible] reason to believe that the Tennessee [illegible] violated [illegible] Commission.

[illegible] within [illegible] days [illegible] which you believe [illegible] investigation of this matter [illegible] list of all contributions [illegible] dates, [illegible] include [illegible] which you may [illegible] matter.

[illegible]

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MUR 383

PS Form 3811, Mar. 1976

RETURN RECEIPT, REGISTERED, INSURED AND CERTIFIED MAIL

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- ☐ RESTRICTED DELIVERY.
  Show to whom and date delivered..... 65¢
- ☐ RESTRICTED DELIVERY.
  Show to whom, date, and address of delivery 85¢

2. ARTICLE ADDRESSED TO:

William F Earthman
Tn. Valley Bancorp. Inc.
Nashville, TN 37219

3. ARTICLE DESCRIPTION:

REGISTERED NO.	CERTIFIED NO.	INSURED NO.
	943509	

(Always obtain signature of addressee or agent)

I have received the article described above.

SIGNATURE ☐ Addressee ☐ Authorized agent

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of	)	
	)	MUR 383 (77)
Tennessee Valley Bancorp, Inc. and Commerce Union Bank	)	

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on June 28, 1977, the Commission approved the General Counsel's recommendation to find reason to believe a violation of 2 U.S.C. section 441b had occurred with respect to any contributions made from the period after summer 1974 to present in the above-captioned matter.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

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OFFICE OF GENERAL COUNSEL

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

JUNE 28, 1977

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE EMMONS MWE

RE: MUR 383 (77)

Our office circulated the General Counsel's 48-hour report on MUR 383 (77) at 9:00 a.m. on June 27, 1977.

At 2:30 p.m. on June 28, 1977, no objections have been received to the proposed recommendation.

We have, therefore, drawn a "certification" to this effect, and it is appended hereto.

Attachment (RTB certification)

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AMERICAN REVOLUTION BICENTENNIAL 1776-1976

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

June 24, 1977

MEMORANDUM TO: Marge Emmons
FROM: William C. Oldaker
SUBJECT: 48 hour report for MUR 383 (77)

Please circulate the attached 48-hour report to the Commissioners on a 24 hour no objection basis.

PLEASE NOTE:

The attached 48 hour report for MUR 383(77) is a revision of the report previously circulated on June 23, 1977.

The revision was necessitated by the fact that, although Standard and Poor's Directory of Corporations had listed respondent Tennessee Valley Bancorp as a national bank, thereby making it subject to a prohibition of contributions to all elections, it was discovered that the use of the term "national bank" in Standard and Poor's is not the same as the use of the term under 2 U.S.C. s.441b. Therefore, the revised 48 hour report bases its recommendation on an alleged violation of 441b by a corporation (not a national bank), and the only prohibited contributions under the Act would be those made to a federal candidate.

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

FEDERAL ELECTION COMMISSION
Washington, D. C.

48 HOUR GENERAL COUNSEL REPORT

MUR NO. 383(77)

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION 6/24/77 2:50 p.m.

DATE COMPLAINT RECEIVED BY OGC FEC rec'd 3-22-77; file mislaid; assigned 6-16-77

ATTORNEY to Browning

Complainant's Name: Charles H. Anderson, U.S. Attorney, Nashville, Tenn.

Respondent's Name: Tennessee Valley Bancorp, Inc. & Commerce Union Bank

Relevant Statute: 2 U.S.C. s.441b

Internal Reports Checked: _____ Federal Agencies Checked _____

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SUMMARY OF ALLEGATION

Respondent Commerce Union Bank made contributions to federal candidates during the period 1971-1976, in violation of 2 U.S.C. s.441b. Commerce Union Bank's parent holding company, Tennessee Valley Bancorp, Inc., was also involved in this violation by virtue of the fact that it owns Commerce Union Bank and its officers were instrumental in the making of the illegal contributions.

PRELIMINARY LEGAL ANALYSIS

The evidence of the 441b violation is based on a report (attached) submitted to the Securities and Exchange Commission by Tennessee Valley Bancorp, Inc., which disclosed approximately $83,000 of political contributions made over the period 1971-1976.

The Commission has authority to take action with respect to only those contributions which were made to federal candidates since respondent is not a national bank or a corporation organized by authority of any law of Congress. Moreover, the prosecution of any violation involving funds contributed from 1971 to the summer of 1974 would be barred by 2 U.S.C. s.455. Thus, it is not clear how much of the $83,000 would be subject to F.E.C. action (according to the S.E.C. report, the figure could range from 0 to approximately $28,000).

RECOMMENDATION

It is recommended that the Commission find reason to believe a violation of 2 U.S.C. s.441b has occurred with respect to any contributions made from the period after summer, 1974, to present. The attached letter should be sent to Mr. William F. Earthman, who is board chairman of both respondents.

Date of Next Commission Review:

FEDERAL ELECTION COMMISSION
GENERAL FILE COPY
OFFICE OF GENERAL COUNSEL

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUEST

Mr. William F. Earthman
Tennessee Valley Bancorp, Inc.
400 Union St.
Nashville, Tennessee 37219

Re: MUR 383(77)

Dear Mr. Earthman:

This letter is to notify you that on the basis of a report dated March 15, 1977, and submitted to the Securities and Exchange Commission, the Federal Election Commission has determined that there is reason to believe that the Tennessee Valley Bancorp Inc. and Commerce Union Bank have violated 2 U.S.C. §441b, which prohibits contributions by a corporation.

Under the Federal Election Campaign Act of 1971, as amended, you are entitled to a reasonable opportunity to demonstrate that no action should be taken against you. Accordingly, I would appreciate it if you would supply all factual or legal materials which you believe are relevant to the Commission's investigation of this matter. This should include an itemized list of all contributions (amounts, dates, names of candidates, and names of bank officers involved) to all political candidates for the dates included in the report. In addition, please include a copy of any report which you may have issued since March 15, 1977, disclosing additional facts found by the Special Committee which originally made the investigation on which the alleged violation is based.

This response should be mailed to the Commission within 15 days of receipt. If you have any questions, please contact Judy Browning (telephone no. 202/523-4075), the attorney assigned to this matter.

Sincerely,

William C. Oldaker
General Counsel

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 383 (77)
Tennessee Valley Bancorp, Inc.)

CERTIFICATION

I, Marjorie W. Emmons, Secretary the Federal Election Commission, do hereby certify that on June 23, 1977, the Commission adopted the recommendation of the General Counsel to find reason to believe a violation of 2 U.S.C. 441b has occurred with respect to any contributions made from the period after summer, 1974, to present, in the above-captioned matter.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

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OFFICE OF GENERAL COUNSEL

7704021777

FEDERAL ELECTION COMMISSION
1325 K STREET N.W.
WASHINGTON, D.C. 20463

JUNE 24, 1977

MEMORANDUM TO: CHARLES STEELE

FROM: MARJORIE W. EMMONS MWE

RE: MUR 383 (77)

At 1:00 p.m. on June 22, 1977, the General Counsel's Report on the above-named MUR was transmitted to the Commissioners. At 4:00 p.m. on June 24, 1977, no objections to the recommendations in the report have been received.

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OFFICE OF GENERAL COUNSEL

AMERICAN REVOLUTION BICENTENNIAL 1776-1976

FEDERAL ELECTION COMMISSION
1325 K STREET NW
WASHINGTON, DC 20463

June 22, 1977

MEMORANDUM TO: Marge Emmons

FROM: William Oldaker

SUBJECT: MURs 383 (77) and 409 (77)

Please have the attached General Counsel Reports on MUR 383 and MUR 409 distributed to the Commission on a 24-hour no-objection basis.

Thank you.

FEDERAL ELECTION COMMISSION
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OFFICE OF GENERAL COUNSEL

7704121771

6-23-77 unofficially objected to & changed

FEDERAL ELECTION COMMISSION
Washington, D. C.

48 HOUR GENERAL COUNSEL REPORT

MUR NO. 383(77)

DATE AND TIME OF TRANSMITTAL BY OGC TO THE COMMISSION 6-22-77 1:00pm

DATE COMPLAINT RECEIVED BY OGC FEC rec'd 3-22-77; file mislaid; assigned 6-16-77

ATTORNEY Browning

Complainant's Name: Charles H. Anderson, U.S. Attorney, Nashville, Tenn.

Respondent's Name: Tennessee Valley Bancorp, Inc.

Relevant Statute: 2 U.S.C.§441b

Internal Reports Checked: _____ Federal Agencies Checked _____

7704117

SUMMARY OF ALLEGATION

Respondent, a national bank, made contributions to federal, state and local candidates over the period 1971-1976, in violation of 2 U.S.C. §441b.

PRELIMINARY LEGAL ANALYSIS

The evidence of a 441b violation is based on a report (attached) submitted to the S.E.C. by respondent which disclosed approximately $83,000 of political contributions made over the period 1971-76. (While only approximately 15% of the $83,000 allegedly went to federal candidates, 441b prohibits a national bank from making contributions in connection with any election.) Since prosecution of any violation from 1971 to summer of 1974 would be barred by 2 U.S.C. §455, the Commission would only be concerned with contributions made after that period.(this figure could amount to as much as $18,000)

RECOMMENDATION

It is recommended that the Commission find reason to believe a violation of 441b has occurred with respect to any contributions made from the period after summer, 1974, to present. The attached letter should be sent to respondent.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Date of Next Commission Review:

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Tone N. Grant
Senior Vice President
Tennessee Valley Bancorp, Inc.
400 Union St.
Nashville, Tennessee 37219

Re: MUR 383(77)

Dear Mr. Grant:

This letter is to notify you that on the basis of a report signed by you on March 15, 1977, and submitted to the Securities and Exchange Commission, the Federal Election Commission has determined that there is reason to believe that the Tennessee Valley Bancorp Inc. has violated 2 U.S.C. §441b, which prohibits contributions by a national bank. (Please note that the Commission has enforcement authority over violations which have occurred in the past three years - 2 U.S.C. §455).

Under the Federal Election Campaign Act of 1971, as amended, you are entitled to a reasonable opportunity to demonstrate that no action should be taken against you. Accordingly, I would appreciate it if you would supply all factual or legal materials whichyyou believe are relevant to the Commission's investigation of this matter. This should include an itemized list of all contributions (amounts, dates, names of candidates, and names of bank officers involved) to political candidates made over the three year period noted above. In addition, please include a copy of any final report which you may have issued since March 15, 1977, disclosing additional facts found by the Special Committee which originally made the investigation on which the alleged violation is based.

This response should be mailed to the Commission within 15 days of receipt. If you have any questions, please contact Judy Browning (telephone no. 202/523-4075), the attorney assigned to this matter.

Sincerely,

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

ok JB

William C. Oldaker
General Counsel

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Text Of Tennessee Val

The following is the text of a report to the Securities and Exchange Commission dated yesterday and signed by Tone N. Grant, senior vice president, secretary and corporate counsel for Tennessee Valley Bancorp, Inc.

On November 16, 1976, the Board of Directors of Tennessee Valley Bancorp ("TVB") unanimously appointed a Special Committee, comprised of outside directors of TVB, to determine whether any questionable or illegal payments or practices, domestic or foreign, had been engaged in by the parent company or its subsidiaries.

The Board of TVB delegated to the Special Committee full and final authority to make determinations regarding disclosure of any matters that may be discovered and to take any other actions that it considered appropriate. The Special Committee, in turn, retained outside counsel which had no prior relationship with TVB or its subsidiaries to assist in its work.

ON INSTRUCTIONS from the Special Committee, counsel filed a report on Form 8-K on December 30, 1976 that disclosed the existence of the inquiry and described the Committee's powers and functions. Counsel advised the Securities and Exchange Commission that the corporation wished to participate in the Commission's voluntary disclosure program. State and Federal banking authorities likewise were notified of the inquiry, and the Internal Revenue Service was advised that the inquiry was being conducted and that its results might necessitate some revision of the corporation's tax returns.

The primary focus of the inquiry related to the years 1971 to the present, the period generally required to be examined and reported on by the Securities and Exchange Commission's voluntary disclosure program. The inquiry focused principally on Commerce Union Bank of Nashville, ("CUB"), the dominant bank in the TVB structure. Counsel for the Committee interviewed members of senior management of CUB and other persons, and, wherever appropriate, reviewed pertinent documents. In addition, selected individuals in senior management of the other banks in the TVB structure were interviewed in order to determine whether those banks may have engaged in activities that warranted disclosure by the Special Committee.

At the present time, the Special Committee's inquiry is largely completed. The Special Committee has sufficient knowledge of the practices that occurred to permit responsible interim reporting to investors and shareholders and to allow the Committee to reach judgments regarding the propriety of the continued service of certain persons on the Board of Directors of TVB.

THE FOLLOWING is the Special Committee's interim report of the matters that should be disclosed to investors and shareholders in accordance with the Securities and Exchange Commission's voluntary disclosure program. The Committee's decision to report these matters does not reflect, in its judgment, that they are material under the securities laws. The Special Committee has reached no final judgment on that question since it believes that, irrespective of materiality, the following matters should be publicly discussed as a part of its and the corpoation's resolve to recognize past problems and take effective measures to assure that they do not recur.

Although some areas of inquiry remain, the Special Committee presently believes that the matters reported herein will represent the total picture to be reported by TVB. A final report will subsequently be filed on a Form 8-K, disclosing any additional facts that the Special Committee may deem appropriate and identifying the final measures that the Committee has adopted to assure that the practices reported herein are not repeated in the future.

The inquiry of the Special Committee has revealed that during the years 1971 to 1974 political contributions totaling some $55,000 were made from four special accounts first established in 1971 largely for the purpose of responding to demands for political contributions. In addition, the Special Committee believes that other political contributions, totaling approximately $16,000, were made in 1974 from proceeds generated through bank loans to its employees that subsequently were repaid from bonuses awarded those and other employees in 1975.

THE SPECIAL Committee further believes that contributions totaling some $6,000 to $8,000 were made or promised in 1974 and likewise ultimately funded through bonuses awarded in 1975. Finally, political contributions of some $3,500 and $600 may have been made in 1975 and 1976, respectively. The Committee has found no subsequent corporate political contributions.

In total, some $83,000 may have been used for political contributions during the period 1971 to 1976. Some 85% of this total appears to have been contributed to candidates for state and local office or expended in fundraising or other political affairs associated with state and local politics. The remainder appears to have been provided candidates for federal office or similarly used for fundraising or other political affairs associated with federal elections. To the extent that the contributions reported herein were corporate funds, such contributions would have violated state and federal law. To the extent that such political contributions were deducted from corporate tax returns as expense allowances and bonuses, it now appears that these expense items may have been improperly characterized.

THE SPECIAL Committee has instructed its counsel to take the necessary steps to insure that any additional federal or state corporate taxes are promptly paid if due.

The problems identified from 1971 to the present appear

ey Bancorp Report To SEC

to have their origin in matters that occurred in the 1960's. In 1968, for example, members of senior management recognized that political contributions were made improperly from bank funds and determined that the bank should be reimbursed for those expenses.

(The possible amount of any tax liability that might arise would not materially affect the financial condition of TVB.)

(It appears that a current director of TVB, who at the time served as outside counsel to the bank, was consulted about the problem, and he advised bank officers of the need to reimburse the bank for prior contributions. He assisted the officers who repaid the bank by borrowing money which was provided to them for reimbursing the bank. This director was thereafter partially repaid from checks drawn from these officers' non-accountable expense accounts, subsequently granted by the bank. It also appears that this director's law firm repaid the remaining portion of his loan.)

DURING that same period, a decision was reached to award non-accountable expense accounts to certain members of senior management who would be exposed in the future to demands for political and charitable contributions. These accounts were to be treated as income by them and available for their use at their discretion for political contributions and other purposes. The outside counsel, who was then a director of CUB and presently is a director of CUB and TVB, advised that these accounts would be legal.

Accordingly, in April of 1969 and in years subsequent to and including 1974, non-accountable expense accounts were awarded Mr. Earthman, then the President of CUB and another senior bank officer who has since left the bank. Beginning in 1970, when Mr. Nelson rejoined the bank, he too was awarded a non-accountable expense account. The Special Committee believes that those accounts were subject to the recipients' discretion and control.

(These non-accountable expense accounts have been reported in the proxy statements filed by CUB and thereafter by TVB.)

BOTH Messrs. Earthman and Nelson have used their non-accountable expense accounts for political contributions and for other purposes, including charitable contributions, the payment of membership fees in local organizations and other personal expenditures. Because they have consistently possessed and exercised personal control over the funds devoted to their accounts, it appears that any political contributions made from those accounts during the period focused upon by this inquiry were personal in nature and therefore were legal under state and federal law.

In 1971, Messrs. Earthman and Nelson sought the legal advice of the director, who was serving as outside counsel, regarding the substantially increased demands for political contributions that were being made upon them and other bank officials. It was decided to establish non-accountable expense accounts for four vice presidents in order to help meet these demands. Based on their discussions at the time, Messrs. Earthman and Nelson advised the Special Committee that they believed that the outside counsel's legal advice was that the payment of personal income taxes on the funds by the recipients of the non-accountable expense accounts rendered the subsequent use of those funds for political contributions lawful.

The outside counsel, however, advised the Committee that he believed that the accounts would be subject to the recipients' personal direction and control, like those of Messrs. Earthman and Nelson, and that he considered that fact to be an essential element of his advice that the mechanism was proper.

(SUBSEQUENT to these discussions, further conversations apparently occurred regarding the operation of these accounts, and it was decided that the accounts would be administered through the Corporate Office. No one can recall who made the decision or how it was made, however.)

No written opinion of the outside counsel was sought or provided; the pertinent advice came in the course of discussions.

The non-accountable expense accounts of $5,000 each which were awarded the four vice presidents of CUB in 1971 and renewed annually thereafter through 1974 were, it appears, not subject to their complete discretion and control. Instead, substantial control of those accounts was exercised by Messrs. Earthman and Nelson, in that a secretary in the bank's Corporate Office maintained the checkbooks and caused checks or debit memoranda to be made up for the recipients' signatures for withdrawals that were used for political contributions to candidates generally designated by Messrs. Earthman or Nelson.

DURING the four years in which the four non-accountable expense accounts were administered, $80,000 was authorized for them. Some $22,000 of that amount was used by the recipients of the accounts for the payment of their personal income taxes.

(The recipients of the accounts reported the total award as income and used some of the proceeds from the non-accountable expense accounts awarded the following year to satisfy this tax liability for each preceding year.)

Virtually all of the remaining $55,000 committed to these accounts was used for direct political contributions or for the purchase of tickets to political fundraising affairs or other political events.

(DUE TO an administrative error, in one year $2,000 was not committed to one account even though it had been authorized by the CUB Executive Committee.)

In addition, in 1974, other contributions totaling approximately $16,000 were made with funds generated from loans taken out by bank officers at the request of their superiors. Other contributions or commitments to make contributions totaling some $6,000 to $8,000 were also made or incurred in connection with 1974 campaigns.

In late 1974, after discussions among Messrs. Earthman, Nelson and the outside counsel, it was determined to discontinue the non-accountable expense accounts and to replace them with the award of salary bonuses.

THUS, BONUSES of $5,000 each were awarded three of the four employes who previously had received non-accountable expense accounts, the fourth employee having then left the bank's employ. In addition, bonuses of $5,000 each were awarded five other employees.

One of the recipients of a $5,000 bonus who previously had received a non-accountable expense account exercised personal discretion and control over this award, and he used his proceeds for various purposes, including some small political contributions. The net after-tax proceeds of the other bonuses, some $23,000, was used primarily to repay the previously identified obligiations that were incurred in 1974. (One $5,000 loan taken out in 1974 by an officer of a branch bank of CUB, was reimbursed by a bonus awarded by the Board of that bank, which by then was an independent bank in the TVB system. The payroll accounts of that bank were administered by Commerce Union Bank of Nashville, and the payment of the bonus accordingly came from its funds.)

WITH THIS reimbursement of 1974 obligations, Messrs. Earthman and Nelson intended to stop the use of the foregoing mechanisms for making political contributions. However, new loans of $3,500 and $600 were taken out in 1975 and 1976, respectively, and apparently were used for new political contributions or for the purchase of tickets to polit-

(Please turn to Page 6)

Panel Commends Senior Ma

(From Page 4)

ical affairs. These new obligations similarly were repaid through the proceeds of a salary bonus awarded in 1976.

The Special Committee's inquiry also revealed that in 1974, a small office was provided rent-free by CUB for use by a candidate for state office for about three months. In addition, one secretary was assigned to work in that facility and was paid some $1,350 through the corporate payroll.

FINALLY, THE Special Committee's inquiry indicated that various corporate employees may have occasionally obtained reimbursement for small political expenditures through their expense accounts, generally not in excess of $100. The inquiry has revealed no pervasive pattern of these occurrences, however. And although it does not appear possible to quantify the total amount of corporate funds that may have been involved in such occurrences, the Special Committee believes that the total expenditures during the five-year period in question were minimal.

The Special Committee's inquiry is not completed. The Committee believes, however, that it has discovered and reported all of the matters that warrant disclosure to investors and shareholders pursuant to the voluntary disclosure program of the Securities and Exchange Commission. Any further matters that may be discovered that warrant disclosure will be disclosed subsequently on Forms 8-K submitted by the Special Committee.

The facts presently known represent a sufficient measure of the total facts that may be discovered in order to allow it to reach certain interim judgments and conclusions. The Special Committee does not condone the activities reported herein nor the failure of these directors to represent the real purposes of the four non-accountable expense accounts and the bonuses to the Executive Committee of CUB at the time the accounts and bonuses were awarded.

THE SPECIAL Committee has determined, however, that Messrs. Earthman and Nelson remain in their present posi-

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tions. Certain mitigating factors are central to that determination. First, the facts obtained by the Special Committee suggest that the events that occurred were the products of the pressures of the time and initially arose during an era when corporate contributions, while improper, were not uncommon. Moreover, the parties have indicated that there were misunderstandings regarding the legal advice on which certain actions were based. Equally important, in the view of the Special Committee, is the conduct of these persons in recommending the establishment of the Special Committee and supporting and cooperating in its endeavors. Finally, the Special Committee believes that the matters reported in this Interim Report must be viewed in light of the exemplary services that Messrs. Earthman and Nelson have contributed as the senior officers of TVB. This Committee must consider the undisputed fact that TVB has grown and prospered largely as a result of their work, guidance and management. The Special Committee therefore believes that the best interests of TVB and its shareholders will be served by the continuation of present management.

The Special Committee also wishes to commend the director who served as outside counsel for his support and cooperation in this investigation. In light of his decision not to seek reelection and the position of the Securities and Exchange Commission regarding the provision of legal advice by attorneys who also serve as directors, the Special Committee believes it desirable to implement the following general policy for TVB: Henceforth, directors of TVB shall be precluded from providing the corporation legal advice while they serve as directors.

Further, the Committee has instructed its counsel, working with management, promptly to prepare a detailed statement of standards and operating rules that will assure that directors, bank officers and employees clearly understand the proper parameters of personal and corporate involvement in political and community affairs and conform their and the bank's conduct to those standards. Counsel also has been instructed to work with management in the design and implementation of procedures that will assure that all questions regarding the operation of these standards and rules will be resolved responsibly and any deviation promptly be discovered and brought to the Board's attention for immediate action.

In conclusion, while the Special Committee considers the events reported herein to be most unfortunate, it commends senior management and the directors involved for dealing with the problem in the manner that they recently have, and for cooperating with its inquiry. The Committee hopes and believes that this unfortunate episode in the corporation's history is behind us, and that attention can again be focused on the continued growth and prosperity of TVB and its affiliate banks.

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

TENNESSEE VALLEY BANCORP, INC.
Tone N. Grant,.
Senior Vice President,
Secretary and Corporate Counsel
Date, March 15, 1977

Docket file for June 16, 1977

MEMORANDUM TO: William Oldaker

FROM: Judy Browning JB

RE: Request for 48-hour report on MUR 383(77) due on Friday, June 17, 1977

This matter involves $83,000 worth of contributions made from slush funds of a national bank over the period 1971-76. The complaint consists of a xeroxed copy of a letter from the U.S.District Attorney in Nashville (with a cc. to Robert Hickey in the Elections Unit, Integrity Section, of the Justice Department) alerting the FBI to the apparent illegal activities, and some Tennessee newspaper articles which discuss the bank's report to the S.E.C. following an in-house investigation of the slush funds.

The complaint for 383(77) was apparently misplaced after its receipt in March, 1977, and was found again this week and assigned on June 16, 1977. I have begun work on the 48-hour report which I plan to turn in to David Spiegel on Monday, June 20, 1977. The recommendation will be that the Commission find reason to believe a 441b violation has occurred with respect to the bank's contributions to Federal, state, and local candidates) for the past three years.

In addition, I have requested investigator Eduardo Patricio to check the reports of Tennessee candidates for contributions from the respondent bank's officers.

Since the original letter from the U.S. Attorney in Nashville was sent to Justice, I wonder if I should contact Mr. Hickey to see whether they have begun an investigation of this matter.

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March 16, 1977

CC#1917

Joseph H. Trimbach, SAIC
Federal Bureau of Investigation
841 Clifford Davis Federal Bldg.
Memphis, Tennessee 38103

770941

RE: Commerce Union Bank
Tennessee Valley Bancorp, Inc.
Election Law Violation
18 U.S.C. § 610

Dear Mr. Trimbach:

Please conduct a preliminary investigation of the $120,000 corporate campaign contributions to various candidates, including a reported $13,000 in federal elections, during a period from 1971-1976.

Since most of the activity reportedly took place before May 11, 1976 (when the Federal Election Campaign Act - 1976 took effect), our jurisdiction would be based on the old Corrupt Practices Act, 18 U.S.C. § 610, prohibiting corporate contributions or expenditures in connection with a "federal" election.

The detailed corporate report is in the attached newspaper clipping from this morning's TENNESSEAN. Individual corporate officers may later become subjects.

Since a three-year statute of limitations applies, a preliminary investigation should include:

1. Obtaining a copy of the corporate report to the SEC dated March 15, 1977, a copy of which is in the newspaper.

2. Attempts to ascertain the dates of any corporate contributions to candidates in federal elections.

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Requests for further investigation will originate with the Elections Unit, Public Integrity Section, Department of Justice, Washington, D. C.

Very truly yours,

CHARLES H. ANDERSON
United States Attorney

CHA:kr

Encl

cc: Robert A. Hickey
Elections Unit, Integrity Section
Room 864, Safeway Bldg.
Department of Justice
Washington, D. C. 20530

Toy J. Fuson, Jr., SRA
FBI - Nashville, TN

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CHARLES H. ANDERSON
UNITED STATES ATTORNEY
MIDDLE DISTRICT OF TENNESSEE

[illegible] NASHVILLE, TENN.

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Alexander: Felt Gifts 'Personal'

By The Associated Press

Two candidates in the 1974 gubernatorial race reportedly received contributions from officials of Tennessee Valley Bancorp, Inc., but both said Tuesday night they knew of no corporate contributions they may have received.

Lamar Alexander, who ran as a Republican, and Tom Wiseman, one of 11 Democrats defeated in the 1974 primary by Gov. Ray Blanton, both acknowledged receiving contributions from Commerce Union Bank officials, but they said they had no reason to believe the money was anything other than a "personal contribution."

Commerce Union Bank is owned by Tennessee Valley Bancorp, the major bank holding company here which reported Tuesday political contributions apparently made from corporate funds from 1971 to 1976.

"I'm sure there were contributions from individual employes of Commerce Union," Alexander said. "We carefully took contributions only from individuals, not corporations."

During their campaigns, both Wiseman and Alexander released lists of campaign contributors. Alexander also released a detailed list showing contributions of almost $19,000 from officials of the bank.

Alexander said Tuesday he might consider returning any corporate money that may be now revealed as having come from Commerce Union.

Federal law makes political contributions with corporate funds illegal.

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Nashville Banner

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$83,000 Bank Slush Fund Disclosed

By PETE BIRD
Business News Writer

Tennessee Valley Bancorp Inc. revealed Tuesday that it had channeled about $83,000 to more than 25 Tennessee politicians over a five-year period from a slush fund controlled by Chairman William F. Earthman and President Edward G. Nelson.

The company, parent firm of Commerce Union Bank and several smaller Tennessee banks, made the disclosure in a report filed with the Securities and Exchange Commission.

The report said about 85 per cent of the gifts flowed to state and local campaigns, with the rest going to candidates for federal offices.

The document indicated that Earthman and Nelson generally directed the course of the money, using nine other employes, four of whom were vice presidents used as conduits.

The 12-page report was revealing in many ways, noting that expenditures ranged from cash contributions to, in one instance, rent-free office space. But at the same time, many questions were left dangling.

The company refused to disclose the names of the recipients — an action that immediately put a number of politicians under suspicion as possible beneficiaries.

✓ *Text of the disclosure, Page 4.*
✓ *U.S. attorney seeks investigation, Page 25.*
✓ *Reaction from politicians, Page 25.*

Mitchell Rogovin, special counsel to the directors committee that investigated the contributions, said it was the company's intention "never to reveal" the names.

But under questioning by *Nashville Banner* publisher Wayne Sargent and *Tennessean* publisher John Seigenthaler, the attorney indicated there were between 25 and 50 recipients of donations ranging from $100 up to $10,000 in one instance.

None of the politicians has any reason to believe the donations were actually corporate funds that had been laundered, it was said.

Altogether, some $120,000 in corporate funds was set aside for making political contributions. But taxes reduced the amount actually pumped out.

The company refused to name which employes — other than Earthman and Nelson — ultimately became involved in the campaign-donation mechanism.

Corporate donations to political candidates are illegal, but it was not immediately clear whether anyone would face prosecution as a result of giving or receiving the TVB money.

Law enforcement officials are taking an interest. "I will seek a copy of the report," U.S. Attorney Charles Hill Anderson said Tuesday. "If there are any apparent violations of the federal campaign act, I will transmit them to the Justice Department and the Federal Election Commission."

The disclosure came after TVB found it couldn't answer an Internal Revenue Service questionnaire containing 11 question about political contributions, the company said. Nelson and Earthman suggested an internal corporate inquiry.

The recommendation led to the formation of a five-member committee composed of "outside" directors — those not involved in day-to-day management. The committee chief was Albert Werthan, chairman of Werthan Industries Inc. here.

The committee was aided by independent legal counsel.

The committee said the bulk of the donations

See TVB, Page 10

EDWARD G. NELSON
President

WILLIAM F. EARTHMAN
Chairman

From Page 1

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. . . TVB

— some $55,000 worth — were made through four "nonaccountable expense accounts" of $5,000 each renewed annually from 1971 through 1974.

The accounts were established in the names of Commerce Union vice presidents but actually controlled by Earthman and Nelson, the report said.

"Substantial control of those accounts was exercised by Messrs. Earthman and Nelson," the report said. "A secretary in the bank's corporate office maintained the checkbooks and caused checks or debit memoranda to be made up for the receipients' signatures for withdrawals that were used for political contributions to candidates generally designated by Messrs. Earthman or Nelson."

The report noted that Earthman and Nelson also had their own nonaccountable expense accounts, which were used for political contributions and other purposes. But the committee didn't include those donations in the company total because they were personal funds "for their use at their discretion. . ."

The report did not specify just how much Earthman and Nelson received and dispersed through their own particular accounts, though it does mention Nelson began receiving his in 1970 and Earthman received his account from 1969 through 1974.

"It appears that any political contributions made from those accounts during the period focused on by this inquiry were personal in nature and therefore were legal under state and federal law," the report said.

In 1971, the company set up the four other accounts to help satisfy "substantially increasing demands for political contributions," the committee report said.

At the time, Earthman and Nelson checked out the idea with a company director who was serving as legal counsel. The report did not give the director's name, but he was later identified as Nashville attorney Charles C. Trabue Jr.

Based on the discussion, Earthman and Nelson believed the accounts were legal, so long as the recipients — the four vice presidents — paid income taxes on the accounts that were in their names.

But Trabue recently told the special committee that the issue of who controls the pursestrings is crucial.

"It was a lack of communication, a failure of communication," Trabue said Tuesday in an interview. "In hindsight, I would have drawn a diagram."

But Nelson and Earthman went ahead and established the new accounts with themselves calling the shots on dispersals.

During the period 1971-75, some $55,000 from the funds went into political campaigns or other political events, the committee said.

The report said other political contributions, totaling some $16,000, were made in 1974 from "proceeds generated through bank loans to its employes that were subsequently repaid with bonuses awarded those and other employes in 1975."

Other contributions "totaling some $6,000 to $8,000 were made or promised in 1974 and ultimately through bonuses awarded in 1975," the report said.

"Finally, political contributions of some $3,500 and $600 may have been made in 1975 and 1976 respectively."

The "bonus" system followed a decision in late 1974 to scrap the "nonaccountable expense accounts." Bonuses of $5,000 each were given to three of the four employes who previously had gotten the expense accounts, the fourth employe having left the bank by that time.

Moreover, five additional employes also received $5,000 bonuses, much of which went to pay off 1974 obligations.

One employe, however, apparently actually believed he was getting a bonus and spent the money for "various purposes, including some small political contributions," the report said.

None of the eight bonus recipients was identified, though corporate counsel Tone N. Grant said they all are still with the bank.

New loans taken out in 1975 were repaid the next year with bonuses, as well, according to the report.

Other expenditures, the report said, include Commerce Union Bank's providing a rent-free office during three months of 1974 to one candidate. And a secretary was assigned to work there and was paid $1,350 from the corporate payroll, the report added.

Other corporate employes may have also occasionally received reimbursement for various political outlays, in most cases less than $100. The committee said the total for such expenditures would be "minimal."

The committee recommended no action against Earthman and Nelson. In fact, it said they should keep their jobs in light of "mitigating factors."

The report called the events a result of the "pressures of the time" and said they occurred "during an era when corporate contributions, while improper, were not uncommon."

The committee noted that there had been a misunderstanding involving Trabue's legal advice, and that the two had performed well as executives.

The committee said that Trabue won't be standing for reelection to the board, and it said in the future, TVB directors won't be allowed to give the company legal advice.

TVB said the committee will later make a final report that will spell out guidelines and operating rules to prevent the recurrence of similar problems.

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OFFICE OF GENERAL COUNSEL

Text Of Tennessee Valley Bancorp Report To SEC

The following is the text of a report to the Securities and Exchange Commission dated yesterday and signed by Tone Grant, senior vice president, secretary and corporate counsel for Tennessee Valley Bancorp, Inc.

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The Board of TVB delegated to the Special Committee full and final authority to make determinations regarding disclosure of any matters that may be discovered and to take any other actions that it considered appropriate. The Special Committee, in turn, retained outside counsel which had no prior relationship with TVB or its subsidiaries to assist in its work.

ON INSTRUCTIONS from the Special Committee, counsel filed a report on Form 8-K on December 30, 1976 that disclosed the existence of the inquiry and described the Committee's powers and functions. Counsel advised the Securities and Exchange Commission that the corporation wished to participate in the Commission's voluntary disclosure program. State and Federal banking authorities likewise were notified of the inquiry, and the Internal Revenue Service was advised that the inquiry was being conducted and that its results might necessitate some revision of the corporation's tax returns.

The primary focus of the inquiry related to the years 1971 to the present, the period generally required to be examined and reported on by the Securities and Exchange Commission's voluntary disclosure program. The inquiry focused principally on Commerce Union Bank of Nashville, ("CUB"), the dominant bank in the TVB structure. Counsel for the Committee interviewed members of senior management of CUB and other persons, and, wherever appropriate, reviewed pertinent documents. In addition, selected individuals in senior management of the other banks in the TVB structure were interviewed in order to determine whether those banks may have engaged in activities that warranted disclosure by the Special Committee.

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THE FOLLOWING is the Special Committee's interim report of the matters that should be disclosed to investors and shareholders in accordance with the Securities and Exchange Commission's voluntary disclosure program. The Committee's decision to report these matters does not reflect, in its judgment, that they are material under the securities laws. The Special Committee has reached no final judgment on that question since it believes that, irrespective of materiality, the following matters should be publicly discussed as a part of its and the corpoation's resolve to recognize past problems and take effective measures to assure that they do not recur.

Although some areas of inquiry remain, the Special Committee presently believes that the matters reported herein will represent the total picture to be reported by TVB. A final report will subsequently be filed on a Form 8-K, disclosing any additional facts that the Special Committee may deem appropriate and identifying the final measures that the Committee has adopted to assure that the practices reported herein are not repeated in the future.

The inquiry of the Special Committee has revealed that during the years 1971 to 1974 political contributions totaling some $55,000 were made from four special accounts first established in 1971 largely for the purpose of responding to demands for political contributions. In addition, the Special Committee believes that other political contributions, totaling approximately $16,000, were made in 1974 from proceeds generated through bank loans to its employees that subsequently were repaid from bonuses awarded those and other employees in 1975.

THE SPECIAL Committee further believes that contributions totaling some $6,000 to $8,000 were made or promised in 1974 and likewise ultimately funded through bonuses awarded in 1975. Finally, political contributions of some $3,500 and $600 may have been made in 1975 and 1976, respectively. The Committee has found no subsequent corporate political contributions.

In total, some $83,000 may have been used for political contributions during the period 1971 to 1976. Some 85% of this total appears to have been contributed to candidates for state and local office or expended in fundraising or other political affairs associated with state and local politics. The remainder appears to have been provided candidates for federal office or similarly used for fundraising or other political affairs associated with federal elections. To the extent that the contributions reported herein were corporate funds, such contributions would have violated state and federal law. To the extent that such political contributions were deducted from corporate tax returns as expense allowances and bonuses, it now appears that these expense items may have been improperly characterized.

THE SPECIAL Committee has instructed its counsel to take the necessary steps to insure that any additional federal or state corporate taxes are promptly paid if due.

The problems identified from 1971 to the present appear to have their origin in matters that occurred in the 1960's. In 1969, for example, members of senior management recognized that political contributions were made improperly from bank funds and determined that the bank should be reimbursed for those expenses.

(The possible amount of any tax liability that might arise would not materially affect the financial condition of TVB.)

(It appears that a current director of TVB, who at the time served as outside counsel to the bank, was consulted about the problem, and he advised bank officers of the need to reimburse the bank for prior contributions. He assisted the officers who repaid the bank by borrowing money which was provided to them for reimbursing the bank. This director was thereafter partially repaid from checks drawn from these officers' non-accountable expense accounts, subsequently granted by the bank. It also appears that this director's law firm repaid the remaining portion of his loan.)

DURING that same period, a decision was reached to award non-accountable expense accounts to certain members of senior management who would be exposed in the future to demands for political and charitable contributions. These accounts were to be treated as income by them and available for their use at their discretion for political contributions and other purposes. The outside counsel, who was then a director of CUB and presently is a director of CUB and TVB, advised that these accounts would be legal.

Accordingly, in April of 1969 and in years subsequent to and including 1974, non-accountable expense accounts were awarded Mr. Earthman, then the President of CUB, and another senior bank officer who has since left the bank. Beginning in 1970, when Mr. Nelson rejoined the bank, he too was awarded a non-accountable expense account. The Special Committee believes that those accounts were subject to the recipients' discretion and control.

(These non-accountable expense accounts have been reported in the proxy statements filed by CUB and thereafter by TVB.)

BOTH Messrs. Earthman and Nelson have used their non-accountable expense accounts for political contributions and for other purposes, including charitable contributions, the payment of membership fees in local organizations and other personal expenditures. Because they have consistently possessed and exercised personal control over the funds devoted to their accounts, it appears that any political contributions made from those accounts during the period focused upon by this inquiry were personal in nature and therefore were legal under state and federal law.

In 1971, Messrs. Earthman and Nelson sought the legal advice of the director, who was serving as outside counsel, regarding the substantially increased demands for political contributions that were being made upon them and other bank officials. It was decided to establish non-accountable expense accounts for four vice presidents in order to help meet these demands. Based on their discussions at the time, Messrs. Earthman and Nelson advised the Special Committee that they believed that the outside counsel's legal advice was that the payment of personal income taxes on the funds by the recipients of the non-accountable expense accounts rendered the subsequent use of those funds for political contributions lawful.

The outside counsel, however, advised the Committee that he believed that the accounts would be subject to the recipients' personal direction and control, like those of Messrs. Earthman and Nelson, and that he considered that fact to be an essential element of his advice that the mechanism was proper.

(SUBSEQUENT to these discussions, further conversations apparently occurred regarding the operation of these accounts, and it was decided that the accounts would be administered through the Corporate Office. No one can recall who made the decision or how it was made, however.)

No written opinion of the outside counsel was sought or provided; the pertinent advice came in the course of discussions.

The non-accountable expense accounts of $5,000 each which were awarded the four vice presidents of CUB in 1971 and renewed annually thereafter through 1974 were, it appears, not subject to their complete discretion and control. Instead, substantial control of those accounts was exercised by Messrs. Earthman and Nelson, in that a secretary in the bank's Corporate Office maintained the checkbooks and caused checks or debit memoranda to be made up for the recipients' signatures for withdrawals that were used for political contributions to candidates generally designated by Messrs. Earthman or Nelson.

DURING the four years in which the four non-accountable expense accounts were administered, $80,000 was authorized for them. Some $22,000 of that amount was used by the recipients of the accounts for the payment of their personal income taxes.

(The recipients of the accounts reported the total award as income and used some of the proceeds from the non-accountable expense accounts awarded the following year to satisfy this tax liability for each preceding year.)

Virtually all of the remaining $55,000 committed to these accounts was used for direct political contributions or for the purchase of tickets to political fundraising affairs or other political events.

(DUE TO an administrative error, in one year $2,000 was not committed to one account even though it had been authorized by the CUB Executive Committee.)

In addition, in 1974, other contributions totaling approximately $16,000 were made with funds generated from loans taken out by bank officers at the request of their superiors. Other contributions or commitments to make contributions totaling some $6,000 to $8,000 were also made or incurred in connection with 1974 campaigns.

In late 1974, after discussions among Messrs. Earthman, Nelson and the outside counsel, it was determined to discontinue the non-accountable expense accounts and to replace them with the award of salary bonuses.

THUS, BONUSES of $5,000 each were awarded three of the four employes who previously had received non-accountable expense accounts, the fourth employee having then left the bank's employ. In addition, bonuses of $5,000 each were awarded five other employees.

One of the recipients of a $5,000 bonus who previously had received a non-accountable expense account exercised personal discretion and control over this award, and he used his proceeds for various purposes, including some small political contributions. The net after-tax proceeds of the other bonuses, some $23,000, was used primarily to repay the previously identified obligiations that were incurred in 1974. (One $5,000 loan taken out in 1974 by an officer of a branch bank of CUB, was reimbursed by a bonus awarded by the Board of that bank, which by then was an independent bank in the TVB system. The payroll accounts of that bank were administered by Commerce Union Bank of Nashville, and the payment of the bonus accordingly came from its funds.)

WITH THIS reimbursement of 1974 obligations, Messrs. Earthman and Nelson intended to stop the use of the foregoing mechanisms for making political contributions. However, new loans of $3,500 and $600 were taken out in 1975 and 1976, respectively, and apparently were used for new political contributions or for the purchase of tickets to polit-

(Please turn to Page 6)

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THE NASHVILLE BANNER, Wednesday, March 16, 1977

Panel Commends Senior Management

(From Page 4)

ical affairs. These new obligations similarly were repaid through the proceeds of a salary bonus awarded in 1976.

The Special Committee's inquiry also revealed that in 1974, a small office was provided rent-free by CUB for use by a candidate for state office for about three months. In addition, one secretary was assigned to work in that facility and was paid some $1,350 through the corporate payroll.

FINALLY, THE Special Committee's inquiry indicated that various corporate employees may have occasionally obtained reimbursement for small political expenditures through their expense accounts, generally not in excess of $100. The inquiry has revealed no pervasive pattern of these occurrences, however. And although it does not appear possible to quantify the total amount of corporate funds that may have been involved in such occurrences, the Special Committee believes that the total expenditures during the five-year period in question were minimal.

The Special Committee's inquiry is not completed. The Committee believes, however, that it has discovered and reported all of the matters that warrant disclosure to investors and shareholders pursuant to the voluntary disclosure program of the Securities and Exchange Commission. Any further matters that may be discovered that warrant disclosure will be disclosed subsequently on Forms 8-K submitted by the Special Committee.

The facts presently known represent a sufficient measure of the total facts that may be discovered in order to allow it to reach certain interim judgments and conclusions. The Special Committee does not condone the activities reported herein nor the failure of these directors to represent the real purposes of the four non-accountable expense accounts and the bonuses to the Executive Committee of CUB at the time the accounts and bonuses were awarded.

THE SPECIAL Committee has determined, however, that Messrs. Earthman and Nelson remain in their present positions. Certain mitigating factors are central to that determination. First, the facts obtained by the Special Committee suggest that the events that occurred were the products of the pressures of the time and initially arose during an era when corporate contributions, while improper, were not uncommon. Moreover, the parties have indicated that there were misunderstandings regarding the legal advice on which certain actions were based. Equally important, in the view of the Special Committee, is the conduct of these persons in recommending the establishment of the Special Committee and supporting and cooperating in its endeavors. Finally, the Special Committee believes that the matters reported in this Interim Report must be viewed in light of the exemplary services that Messrs. Earthman and Nelson have contributed as the senior officers of TVB. This Committee must consider the undisputed fact that TVB has grown and prospered largely as a result of their work, guidance and management. The Special Committee therefore believes that the best interests of TVB and its shareholders will be served by the continuation of present management.

The Special Committee also wishes to commend the director who served as outside counsel for his support and cooperation in this investigation. In light of his decision not to seek reelection and the position of the Securities and Exchange Commission regarding the provision of legal advice by attorneys who also serve as directors, the Special Committee believes it desirable to implement the following general policy for TVB: Henceforth, directors of TVB shall be precluded from providing the corporation legal advice while they serve as directors.

Further, the Committee has instructed its counsel, working with management, promptly to prepare a detailed statement of standards and operating rules that will assure that directors, bank officers and employees clearly understand the proper parameters of personal and corporate involvement in political and community affairs and conform their and the bank's conduct to those standards. Counsel also has been instructed to work with management in the design and implementation of procedures that will assure that all questions regarding the operation of these standards and rules will be resolved responsibly and any deviation promptly be discovered and brought to the Board's attention for immediate action.

In conclusion, while the Special Committee considers the events reported herein to be most unfortunate, it commends senior management and the directors involved for dealing with the problem in the manner that they recently have, and for cooperating with its inquiry. The Committee hopes and believes that this unfortunate episode in the corporation's history is behind us, and that attention can again be focused on the continued growth and prosperity of TVB and its affiliate banks.

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

TENNESSEE VALLEY BANCORP, INC.
Tone N. Grant,
Senior Vice President,
Secretary and Corporate Counsel
Date, March 15, 1977

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