



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3930

DATE FILMED 8-31-94 CAMERA NO. 2

CAMERAMAN JMN

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RECEIVED  
FEDERAL ELECTION  
COMMISSION  
MAIL ROOM

**ELECT STEVE WILSON '94**

P.O. Box 382603  
Germantown, Tn 38183-2603  
(901) 753-7101

FEB 10 11 09 AM '94

February 3, 1994

MUR 3930

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
94 FEB 10 PM 3:30

Office of General Counsel  
Federal Election Commission  
Washington, D.C. 20643

Dear Sir:

I am formally requesting an investigation into the campaign practices of Harold Sterling, candidate for the United States Senate in Tennessee in 1994.

Telephone inquiries made to your office and fielded by Ms. Louise Wides on January 31 and February 1, 1994 reveal that Mr. Sterling has not filed either an exploratory committee or a campaign committee with the Federal Election Commission.

Enclosed please find Harold Sterling campaign literature which includes the name of an alleged U.S. Senate Exploratory Committee, the name of its Treasurer, a mailing address and a phone number. This piece of literature has been widely distributed.

If Mr. Sterling had indeed filed on an exploratory basis, I would still be requesting an investigation because it is my firm belief that he has exceeded the financial parameters (\$5000 either raised or spent) which require filing with the F.E.C. as a candidate.

My belief is based upon the following:

1. He has been criss-crossing the state for months. The experience in our campaign informs me that this is not an inexpensive process.
2. He has stated that he commissioned a statewide poll. Again, not an inexpensive matter.
3. He is alleged to have retained a professional campaign consulting firm.

Additionally, he has conducted public campaigning functions and has referred to himself as a candidate, not merely as a potential candidate. In consideration of these

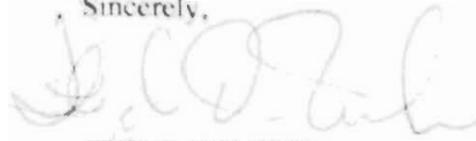
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facts, I am persuaded that Harold Sterling has been, and continues to be, in flagrant violation of the law.

I realize that your office is overwhelmed with investigations; however, your prompt attention to this matter is requested so that Mr. Sterling will be deterred from breaching the letter and the spirit of the law.

If additional information is required, please feel free to contact me.

Sincerely,



STEVE WILSON

SDW:g  
Encl:

Subscribed and sworn to before me this 3rd day of February, 1994.



Notary Public

My Comission Expires:

**MY COMMISSION EXPIRES MAY 22, 1995**

Paid for by  
ELECT STEVE WILSON '94  
Roger Kirk, Treasurer

24043563713

# Harold Sterling

UNITED STATES SENATE

" Representing YOU For A Change "

THE MAN TO BEAT JIM \$ASSER

- ◆ The first Republican elected to Countywide office in Shelby County. Won the 1992 Shelby County Property Assessor's race with 97,000 votes.
- ◆ Has 32 years of Business Management experience.
- ◆ Elected to four terms in the Tennessee House of Representatives.
- ◆ Built one of the largest Real Estate businesses in Memphis
- ◆ State Chairman for Ronald Reagan's 1976 presidential bid
- ◆ Republican Gubernatorial candidate in 1978 against Lamar Alexander
- ◆ Recipient of Tennessee's Outstanding Young Man Award.

Thursday, December 9, 1993

# Political arena

## Candidate ready to spar with Sasser

By Robert Houk

Press Staff Writer

If politics were a boxing match, Harold Sterling, Shelby County's assessor of property and Republican candidate for U.S. Senate, believes he is the candidate best prepared to trade punches with Democratic Sen. Jim Sasser.

"The other (GOP) candidates in the race have never run for anything," Sterling said during a stop in Johnson City Wednesday. "It is like going into a boxing match without ever sparring."

He said other Republicans in the race have no real political experience.

"I have won five elections," said Sterling, who became Shelby County's first acknowledged Republican to hold a county office in 1992. "I now hold office in the state's largest county."

The 55-year-old former state lawmaker and one-time gubernatorial candidate is one of a number of Republicans vying to unseat Sasser in November. Others include Bob Corker, a Chattanooga businessman; Steve Wilson, a Germantown author and economist; Dr. Byron Bush, a Nashville dentist; Chattanooga conservative John Davies and Dr. William Frist, a Nashville physician.



**'I am the candidate who can best get to Sasser's record. I beat my opponent for assessor of property by focusing on his record. He was a target, and I zeroed in on my target'**

Harold Sterling

Sterling said his political experience and savvy should make him the front-runner in the race. He said some of his more inexperienced colleagues such as Wilson are learning to follow his lead.

"He (Wilson) has been listening to me when we've been together,"

Sterling said. "He's seen how effective I've been. I do it better, though, because I have the convictions and the record."

Sterling commissioned a statewide poll during the summer that he said proves Sasser, a 17-year veteran of Capitol Hill, is vulner-

able. He said the poll shows only 17 percent of the state's voters questioned are "strongly committed" to Sasser's candidacy.

The poll showed only 30 percent "strongly approved" of Sasser's job performance, and less than 26 percent of those polled felt the incumbent deserves another term.

"The polls show that after the voters read his voting record, Sasser and I are dead even at 38 percent each," he said.

Sterling said he does not plan to run against his opponents in the GOP primary, but would instead concentrate on exposing Sasser's voting record. He said Sasser's record shows he is more akin to liberals like Sens. Edward Kennedy, D-Mass., and Howard Metzenbaum, D-Ohio, than to the interests of most Tennesseans.

"I am the candidate who can best get to Sasser's record," Sterling said. "I beat my opponent for assessor of property by focusing on his record. He was a target, and I zeroed in on my target."

The Shelby County Republican said he chose to run against Sasser because of his voting record in Washington.

"I'm an offensive-minded player," said Sterling, a one-time football standout at Memphis State University.

Harold Sterling  
Shelby County Property Assessor  
P.O. Box 3076  
Memphis, TN 38173

December 29, 1993

Dear Valued Supporter:

On Saturday, January 8, 1994, at 9:30 a.m. at the East Memphis Catholic Club, 5331 Helene Rd., you are invited to a very important meeting.

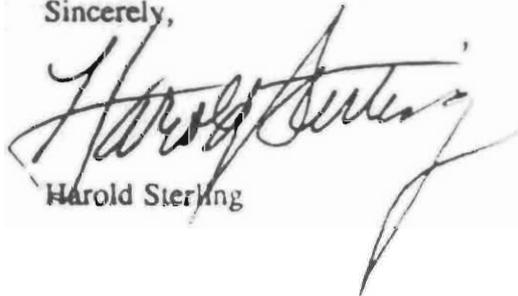
You have been most supportive of me in the past, and this meeting will inform you about what we have accomplished as Shelby County Property Assessor. In addition, we will discuss in detail our four-year plans for the Assessor's office.

The other purpose of this meeting will be to discuss how vulnerable Jim Sasser is and how he can be beat, and why I have been given so much encouragement from all across Tennessee to run against him. Your input will be essential to my decision.

It would honor me greatly if you would attend. There will not be any solicitation of money. I value you as a supporter, and I particularly value your advice.

Please call Linda Cruse in my office at 576-3645 to confirm your attendance.

Sincerely,

  
Harold Sterling

94043563716

Harold Sterling  
Shelby County Property Assessor  
P.O. Box 3076  
Memphis, TN 38173

Chas S. Peete, Jr.  
162 Palisade Street  
Memphis, TN 38111

January 12, 1994

Dear ~~Chas~~ *Charles*

Thank you for attending my Saturday morning meeting. I was very gratified by the support you showed me.

Your enthusiasm has encouraged me even more. Polls, statistics, and analyses can look good, but until real people — supporters like you — confirm their conclusions with emotion and conviction, they have little value.

We can win this Senate seat. I'm convinced of that fact. But it won't be done without hard work, a good plan, and money.

Enclosed you will find an envelope with a list of campaign functions. Please check the areas where you can serve and, if possible, include a generous campaign contribution. The opposition will always point to fundraising as a challenger's weakness. That's because the incumbent always has a large war chest. Remember the Assessor's race! No one can get more bang for the buck than I can.

I know some of you can afford to give very little, and your commitment to work in my campaign is enough. Others can best give money because they have little time to give. Both are welcome. Whichever category you fall in, please return the envelope.

Thank you again for your support. With your help, we beat one incumbent and we can do it again!

Sincerely,

*Harold Sterling*  
Harold Sterling

24043563717



FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20541

FEBRUARY 16, 1994

Steve Wilson  
P.O. Box 382603  
Germantown, TN 38183-2603

RE: MUR 3930

Dear Mr. Wilson:

This letter acknowledges receipt on February 10, 1994, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 3930. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosure  
Procedures

94043563718



FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20542

FEBRUARY 16, 1994

Harold Sterling  
P.O. Box 3076  
Memphis, TN 38173

RE: MUR 3930

Dear Mr. Sterling:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3930. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

24043563719

Harold Sterling  
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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

24043563720



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20543

FEBRUARY 16, 1994

Jim Mertzlufft, Treasurer  
U.S. Senate Exploratory Campaign  
P.O. Box 3076  
Memphis, TN 38173

RE: MUR 3930

Dear Mr. Mertzlufft:

The Federal Election Commission received a complaint which indicates that the U.S. Senate Exploratory Campaign ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3930. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

24043563721

Jim Mertzlufft, Treasurer  
U.S. Senate Exploratory Campaign  
Page 2

If you have any questions, please contact Joan McEnery at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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

24043563722



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20541

FEBRUARY 16, 1994

Jim Mertzlufft, Treasurer  
Friends of Harold Sterling  
P.O. Box 3076  
Memphis, TN 38173

RE: MUR 3930

Dear Mr. Mertzlufft:

The Federal Election Commission received a complaint which indicates that Friends of Harold Sterling ("Committee") and you, as treasurer, may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 3930. Please refer to this number in all future correspondence.

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

This matter will remain confidential in accordance with 2 U.S.C. § 437g(a)(4)(B) and § 437g(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed form stating the name, address and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

74043663723

Jim Mertzlufft, Treasurer  
Friends of Harold Sterling  
Page 2

If you have any questions, please contact Joan McEnergy at (202) 219-3400. For your information, we have enclosed a brief description of the Commission's procedures for handling complaints.

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Enclosures

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

24043563724



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20543

MARCH 18, 1994

Harold Sterling  
P.O. Box 3076  
Memphis, TN 38173

RE: MUR 3930  
Harold Sterling

Dear Mr. Sterling:

This is in response to your letter dated March 7, 1994, requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted a 20 day extension. Accordingly, your response is due by the close of business on April 6, 1994.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

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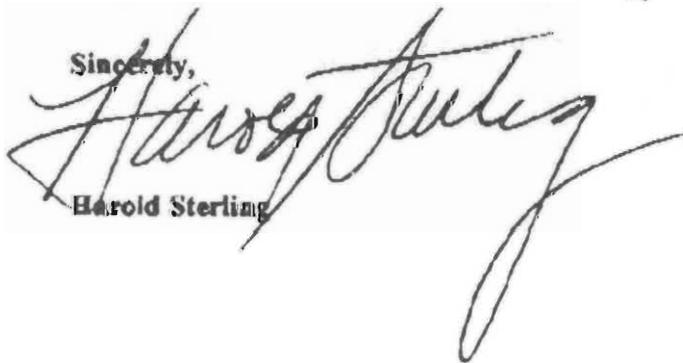
March 7, 1994

Joan McEnery  
Federal Election Commission

Dear Ms. McEnery:

This is an interim response and acknowledgment of receipt of MUR 3930, dated February 16, 1994. I did not receive it until March 2, 1994 due to the ice storm and severe power outage all over the mid-south. I respectfully request until April 24, 1994 to furnish you detailed information. If this is not satisfactory, please let me know.

Sincerely,



Harold Sterling

94043563726

Harold Sterling  
Shelby County Property Assessor  
P.O. Box 3076  
Memphis, TN 38173

March 16, 1994

Ms. Joan McEnery  
Federal Election Commission  
Office of General Counsel  
999 E. Street N.W., Room 657  
Washington, DC 20463

Dear Ms. McEnery:

This is an interim response and acknowledgement of receipt of MVR 3930 dated February 16, 1994. I did not receive it until March 2, 1994 due to the ice storm and severe power outage all over the mid-south. I respectfully request until April 24, 1994 to furnish you detailed information.

This request mirrors Mr. Sterling's request of March 7, 1994 on the same matter. If this is not satisfactory, let me know.

Very truly yours,

James W. Mertzlufft

JWM:mj

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FEDERAL ELECTION COMMISSION



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

MARCH 25, 1994

Jim Mertzlufft, Treasurer  
Friends of Harold Sterling  
P.O. Box 3076  
Memphis, TN 38173

RE: MUR 3930  
Friends of Harold Sterling  
and Jim Mertzlufft as  
treasurer, and U.S. Senate  
Exploratory Committee and Jim  
Mertzlufft as treasurer

Dear Mr. Mertzlufft:

This is in response to your letter dated March 16, 1994, requesting an extension to respond to the complaint filed in the above-noted matter. After considering the circumstances presented in your letter, the Office of the General Counsel has granted a 20 day extension. Accordingly, your response is due by the close of business on April 6, 1994.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar, Attorney  
Central Enforcement Docket

24043563728

Harold Sterling  
Shelby County Property Assessor  
P.O. Box 3076  
Memphis, TN 38173

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COMM MAIL

March 31, 1994

Ms. Joan McEnery  
Federal Election Commission  
Office of the General Counsel  
Washington, DC 20463

RE: MUR #3930

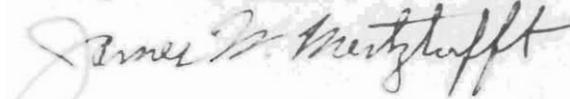
Dear Ms. McEnery:

I am writing you this letter for the following reasons:

- 1) I gratefully acknowledge your extension of time to reply to the FEC on MUR 3930 until April 6, 1994.
- 2) I enclose the formal reply to the FEC on MUR 3930.
- 3) I wish to state that the response enclosed will also constitute my response to MUR 3930 as well as Mr. Sterling's.
- 4) I enclose two Statements of Designation of Counsel in this matter executed by Mr. Sterling in favor of myself and Mr. Robert C. Richardson.

Thank you for your help in this matter.

Very truly yours,



James W. Mertzlufft, JD, CPA

JWM:mj  
Enclosure

24043563/29

RECEIVED  
FEB 4 9 11 AM '94

Harold Sterling  
Shelby County Property Assessor  
P.O. Box 3076  
Memphis, TN 38173

March 25, 1994

Ms. Joan McEnery  
Federal Election Commission  
Office of the General Counsel  
Washington, D.C. 20463

Re: MUR No. 3930

Dear Ms. McEnery:

This letter is submitted in response to the Commission's request regarding the above-referenced Matter Under Review on behalf of the respondent, Harold Sterling (hereinafter "the Respondent"). This response is intended to aid the Commission in its investigation and resolution of the above-referenced matter, and it is our intent to be fully cooperative in this regard. Since this response represents facts as they are presently known and understood, we respectfully reserve the right, if applicable, to rely on other facts, defenses, conclusions of law, and arguments not herein expressed.

Initially, we believe it would be helpful to the Commission to understand the background of the Respondent's interest in the U.S. Senate race. In 1992, Mr. Sterling became the first candidate from his party to be elected to a county-wide office in many years, defeating a prominent incumbent in the general election. Beginning in 1993, the Respondent began receiving unsolicited contacts from high level party members on the local, state, and even national level, as well as from past campaign supporters, urging him to consider the race for U.S. Senate. Having held several political offices in the past in addition to his current position, the Respondent is keenly aware through past experience that a race of this magnitude should not be undertaken without exploring the level of support and contributions he could expect on a state-wide level. Therefore, in the latter part of 1993, the Respondent began his efforts to "test the waters" for the possibility of running in this race.

The complaint filed by Mr. Steve Wilson (hereinafter "the Complainant") charges that the Respondent has failed to file "either an exploratory committee or a campaign committee with the Federal Election Commission." However, in reviewing the complaint, it is apparent that the complaint is based on the mistaken application and inaccurate interpretation of law, as well as unsupported, inaccurate, and/or misleading allegations of fact, all as discussed more fully below.

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The Respondent does in fact have an "exploratory committee," which, as a matter of practice, is certainly advisable in a situation such as this. The activities of this committee have been limited to testing the waters, and the committee does not engage in campaigning. In no manner is the Respondent referred to as a "candidate" for this office either by the Respondent himself or by the name or activities of the committee. Since there is no requirement that such exploratory committees register with the Commission, the Complainant's implication that the failure to do so is a violation of law is unfounded.

The Complainant also implies that since he believes the Respondent has "exceeded the financial parameters (\$5000 either raised or spent)," the Respondent should be required to file as a candidate. His belief that this amount has been exceeded is based on his broad allegations that the Respondent been "criss-crossing the state for months . . . has commissioned a statewide poll . . . [and] is alleged to have obtained a professional campaign consulting firm." However, these "bases" are moot, as the mere surpassing of this amount does not require any filing with the Commission unless an individual subsequently becomes a candidate. 11 C.F.R. §§100.7(b)(1)(i) and 100.8(b)(1)(i). The Respondent, as discussed more fully below, categorically denies that anything has been done to trigger his candidacy. Should he become a candidate, he intends to fully comply with all filing requirements. (For the record, the Respondent denies that he has hired a political consultant or any similar professional consulting firm. Moreover, the Respondent had indeed travelled to other parts of the state and conducted a poll, all of which were done to gauge his potential support. Such actions are not only essential to effectively "test the waters," but travel and polling are also specifically permissible activities when done for this purpose. 11 C.F.R. §100.8(b)(1)(i).)

The last allegation made by the Complainant is that the Respondent "has conducted public campaigning functions and has referred to himself as a candidate, not merely as a potential candidate." Again, the Respondent vehemently denies ever referring to himself as a candidate. The newspaper excerpt provided by the Complainant is from a newspaper from across the state which is not that familiar with the Respondent, and it is apparent the newspaper was loose or unconcerned in making the distinction between a potential candidate and a declared one. The Respondent's statements to the reporter, such as the use of the word "frontrunner," were intended to elicit a response from the people and the media to the idea of a Sterling candidacy. The Respondent denies that he held himself out in any manner, directly or indirectly, to be a candidate to this reporter, and he obviously has no control beyond that point as to how the story is written.

With regard to the "public campaigning functions," only one "public meeting" has been held in connection with the possible race

74043663731

for the Senate seat. This meeting was held on January 8, 1993. As indicated by the literature provided by the Complainant, the purpose of this meeting was, in part, to "discuss how vulnerable [the incumbent] is and how he can be beat, and why I (the Respondent) have been given so much encouragement from all across Tennessee to run against him. Your input will be essential to my decision." (Emphasis added). This certainly shows that the purpose of this part of the meeting was to further "test the waters," and the follow-up letter to this meeting provided by the Complainant shows that he has not yet declared his candidacy, merely stating, "Your enthusiasm has encouraged me even more," as well as soliciting funds which could at least be used to cover the exploratory campaign expenses. It is important to note that this was an informal gathering (approximately 75 individuals in attendance) of past supporters of the Respondent from his previous race for county office, and any "testing the water" done by the Respondent surely would include a meeting with these individuals to determine if past supporters would be willing to back him for the Senate. No other fund-raisers or gatherings of supporters have been held on his behalf.

24043563732

While we are certainly cognizant of the fact that the right to file a complaint is open to all citizens (and rightfully so), we believe that the apparent motive of the Complainant certainly is relevant in the consideration of the present matter. The Complainant is an acknowledged candidate who, if the Respondent runs, will face the Respondent in the primary election. With all due respect, the Complainant is not generally considered as a "front-runner" or "serious contender" and would have much difficulty prevailing in such a race, especially with the entry of the Respondent, whose name recognition is much higher. The Complainant's intent to use this complaint as an instrument to deter or inhibit the candidacy of the Respondent is obvious, since soon after the date on his complaint (February 3, 1994), the Complainant notified our region's major newspaper of the fact that he had filed the complaint and of the allegations contained therein. See Exhibit No. 1 (Article from The Commercial Appeal dated February 5, 1994. This is an abuse of the complaint process and is in apparent violation of the confidentiality provisions of 2 U.S.C. §437g(a)(4) and 11 C.F.R. §111.21. The Complainant's improper motive is also evidenced by the complaint itself, which contains false and misleading allegations, repeated misinterpretations and misapplications of law, and an overall "scattershot," "maybe-something-will-stick" approach without giving specific instances of violations. We believe that all of this should be taken into account during the consideration of the present matter.

The Respondent categorically and vehemently denies all allegations contained in the complaint, as well as any other violations of federal election laws. Based on the foregoing, the respondent respectfully requests that the Commission find no reason

to believe that the Complaint sets forth a possible violation of the Act and, accordingly, close the file in this matter.

I trust that our position as expressed herein is responsive to your inquiry. However, if you have any questions, or if any further information is needed, please do not hesitate to contact me.

Sincerely yours,

HAROLD STERLING

by: James W. Mertzlufft  
James W. Mertzlufft, J.D., C.P.A.  
1394 Carr Avenue  
Memphis, Tennessee 38104

24043563733

MEMPHIS  
THE COMMERCIAL APPEAL  
2-5-94

## Wilson seeks Sterling campaign inquiry

By Patti Patterson  
The Commercial Appeal

Steve Wilson, a Republican candidate for the U.S. Senate, has requested an investigation into the campaign practices of Shelby County Assessor Harold Sterling.

Wilson says that Sterling has violated campaign regulations by failing to file required paperwork with the Federal Election Commission.

Wilson and Sterling are potential Republican rivals for the senate seat held by Sen. Jim Sasser (D-Tenn.)

Sterling says he isn't required

to file financial records with the FEC unless he becomes a candidate. In the meantime, he said he only is required to keep detailed records of contributions and expenses.

"I've made it very clean that I have formed an exploratory committee and have not announced as an actual candidate," he said.

FEC spokesman Kelly Huff said the agency does not comment on investigations. However, she said that potential candidates are allowed to conduct several types of activities without filing with the FEC.

The activities include polling, traveling and making telephone

calls to determine whether to become a candidate.

Potential GOP candidates for the seat also include former Circuit Court Judge Ken Porter of Newport, who resigned from the bench to seek the seat, along with Chattanooga contractor Bob Corker, Dr. William Frist of Nashville, conservative activist John Davies of Chattanooga and Nashville dentist Byron Bush.



24043563734

MUR 3930

NAME OF COUNSEL: ROBERT C RICHARDSON

ADDRESS: [REDACTED]  
[REDACTED]  
[REDACTED]

1136 Hunters Lake Dr.  
Cordova, Tennessee 38018

TELEPHONE: (901) [REDACTED] 753-8209

The above-named individual is hereby designated as my  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf  
before the Commission.

3/23/94  
Date

[Signature]  
Signature

RESPONDENT'S NAME: HAROLD STERLING

ADDRESS: P.O. Box 3076  
MEMPHIS TN 38193

TELEPHONE: HOME  
BUSINESS (901) 576-4203

74045563735

NUR 3920

NAME OF COUNSEL: JAMES MERTZLUPET

ADDRESS: 1394 CARR AVE  
MEMPHIS, TN 38104

TELEPHONE: (901) 767-5100

The above-named individual is hereby designated as my  
counsel and is authorized to receive any notifications and other  
communications from the Commission and to act on my behalf  
before the Commission.

3/23/94  
Date

  
Signature

RESPONDENT'S NAME: HAROLD STERLING

ADDRESS: P.O. Box 3076  
MEMPHIS, TN 38173

TELEPHONE: HOME  
BUSINESS (901) 576-4203

24043563736

JUN 30 3 59 PM '94

BEFORE THE FEDERAL ELECTION COMMISSION

**SENSITIVE**

In the Matter of

)  
) Enforcement Priority  
)

GENERAL COUNSEL'S QUARTERLY REPORT

I. INTRODUCTION

This report is the second Enforcement Priority System Quarterly Report. The purpose of this Quarterly Report is to recommend that the Commission no longer pursue the identified lower priority and stale cases.

II. CASES RECOMMENDED FOR CLOSING

A. Cases Not Warranting Further Pursuit Relative to Other Cases Pending Before the Commission

A critical component of the Priority System is identifying those pending cases that do not warrant the further expenditure of resources. Each incoming matter is evaluated using Commission approved criteria

By closing such cases the Commission is able to use its limited resources to focus on more important cases.

Having evaluated incoming matters, this Office has identified 16 cases which do not warrant further pursuit relative to the other pending cases.<sup>1</sup> A short

1. These matters are: MUR 3920; MUR 3930; MUR 3934; MUR 3939; MUR 3942; MUR 3943; MUR 3945; MUR 3948; MUR 3953; MUR 3955; MUR 3957; MUR 3964; MUR 3965; MUR 3967; RAD 94L-22; and RAD 94L-25.

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description of each case and the factors leading to assignment of a relatively low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 1-16. For the Commission's convenience, the narratives for externally-generated matters are immediately followed by the complaint and response(s) and the narratives for internally-generated matters are immediately followed by the referral.

#### B. Stale Cases

Investigations are severely impeded and require relatively more resources when the activity and evidence are old. Consequently, the Office of General Counsel recommends that the Commission focus its efforts on cases involving more recent activity. Such efforts will also generate more impact on the current electoral process and are a more efficient allocation of our limited resources. To this end, this Office has identified 42 cases that

do not warrant further investment of significant Commission resources.<sup>2</sup> Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate

2. These matters are: MUR 3132; MUR 3432; MUR 3466; MUR 3470; MUR 3473; MUR 3495; MUR 3558; MUR 3575; MUR 3581; MUR 3594; MUR 3600; MUR 3625; MUR 3647; MUR 3663; MUR 3684; MUR 3698; MUR 3712; MUR 3733; MUR 3744; MUR 3749; MUR 3756; MUR 3759; MUR 3767; MUR 3776; MUR 3779; RAD 92L-26, RAD 93L-25; RAD 93L-26; RAD 93L-29; RAD 93L-31; RAD 93L-33; RAD 93L-35; RAD 93L-36; RAD 93L-38; RAD 93L-39; RAD 93NF-02; RAD 93NF-03; RAD 93NF-06; RAD 93NF-10; RAD 93NF-12; RAD 93NF-15; and RAD 93NF-20.

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narratives for these cases. However, for externally-generated matters in which the Commission has made no findings, the complaint and response(s) are attached to the report and for internally-generated matters in which the Commission has made no findings, the referral is attached. See Attachments 17-53. Because the Commission has already made findings in five of the stale cases, no additional information is being attached to this report in regard to these cases.<sup>3</sup>

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3. These matters are: MUR 3132, MUR 3432, MUR 3466, MUR 3495, and MUR 3733.

This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the identified cases effective August 1, 1994. This will allow the Legal Review Team adequate time to prepare the Pre-MUR and MUR files so that the cases can appear on the public record by September 1, 1994, within 30 days of the August 1, 1994, closing date. This timeframe also will enable this Office to prepare closing letters so that the letters can be mailed on August 2, 1994. Additionally, the Press Office will need time to review the files for inclusion in one of its press releases.

**III. RECOMMENDATIONS**

A. Decline to open a MUR and close the file in the following matters to be effective on August 1, 1994:

- 1) RAD 92L-26
- 2) RAD 93L-25
- 3) RAD 93L-26
- 4) RAD 93L-29
- 5) RAD 93L-31
- 6) RAD 93L-33
- 7) RAD 93L-35
- 8) RAD 93L-36
- 9) RAD 93L-38
- 10) RAD 93L-39
- 11) RAD 94L-22
- 12) RAD 94L-25
- 13) RAD 93NF-02
- 14) RAD 93NF-03
- 15) RAD 93NF-06
- 16) RAD 93NF-10
- 17) RAD 93NF-12
- 18) RAD 93NF-15
- 19) RAD 93NF-20

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B. Take no action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

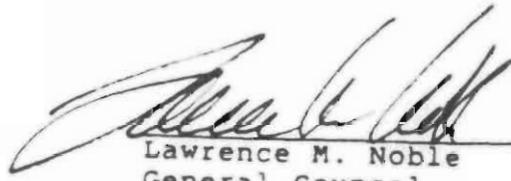
- 1) MUR 3470
- 2) MUR 3473
- 3) MUR 3558
- 4) MUR 3575
- 5) MUR 3581
- 6) MUR 3594
- 7) MUR 3600
- 8) MUR 3625
- 9) MUR 3647
- 10) MUR 3663
- 11) MUR 3684
- 12) MUR 3698
- 13) MUR 3712
- 14) MUR 3744
- 15) MUR 3749
- 16) MUR 3756
- 17) MUR 3759
- 18) MUR 3767
- 19) MUR 3776
- 20) MUR 3779
- 21) MUR 3920
- 22) MUR 3930
- 23) MUR 3934
- 24) MUR 3939
- 25) MUR 3942
- 26) MUR 3943
- 27) MUR 3945
- 28) MUR 3948
- 29) MUR 3953
- 30) MUR 3955
- 31) MUR 3957
- 32) MUR 3964
- 33) MUR 3965
- 34) MUR 3967

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C. Take no further action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3132
- 2) MUR 3432
- 3) MUR 3466
- 4) MUR 3495
- 5) MUR 3733

6/30/94  
Date

  
Lawrence M. Noble  
General Counsel

24043563742

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
Enforcement Priority ) Agenda Document  
#X94-72

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on July 19, 1994, do hereby certify that the Commission decided by a vote of 6-0 to take the following actions with respect to Agenda Document #X94-72:

A. Decline to open a MUR and close the file in the following matters to be effective on August 1, 1994:

- 1) RAD 92L-26
- 2) RAD 93L-25
- 3) RAD 93L-26
- 4) RAD 93L-29
- 5) RAD 93L-31
- 6) RAD 93L-33
- 7) RAD 93L-35
- 8) RAD 93L-36
- 9) RAD 93L-38
- 10) RAD 93L-39
- 11) RAD 94L-22
- 12) RAD 94L-25
- 13) RAD 93NF-02
- 14) RAD 93NF-03
- 15) RAD 93NF-06
- 16) RAD 93NF-10
- 17) RAD 93NF-12
- 18) RAD 93NF-15
- 19) RAD 93NF-20

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- B. Take no action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3470
- 2) MUR 3473
- 3) MUR 3558
- 4) MUR 3575
- 5) MUR 3581
- 6) MUR 3594
- 7) MUR 3600
- 8) MUR 3625
- 9) MUR 3647
- 10) MUR 3663
- 11) MUR 3684
- 12) MUR 3698
- 13) MUR 3712
- 14) MUR 3744
- 15) MUR 3749
- 16) MUR 3756
- 17) MUR 3759
- 18) MUR 3767
- 19) MUR 3776
- 20) MUR 3779
- 21) MUR 3920
- 22) MUR 3930
- 23) MUR 3934
- 24) MUR 3939
- 25) MUR 3942
- 26) MUR 3943
- 27) MUR 3945
- 28) MUR 3948
- 29) MUR 3953
- 30) MUR 3955
- 31) MUR 3957
- 32) MUR 3964
- 33) MUR 3965
- 34) MUR 3967

(continued)

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C. Take no further action, close the file effective on August 1, 1994, and approve the appropriate letter in the following matters:

- 1) MUR 3132
- 2) MUR 3432
- 3) MUR 3466
- 4) MUR 3495
- 5) MUR 3733

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

Attest:

7-20-94  
Date

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

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FEDERAL ELECTION COMMISSION

WASHINGTON, DC 20463

August 2, 1994

Steve Wilson  
P.O. Box 382603  
Germantown, TN 38183

RE: MUR 3930

Dear Mr. Wilson:

On February 10, 1994, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on August 1, 1994. This matter will become part of the public record within 30 days.

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

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**MUR 3930**  
**FRIENDS OF HAROLD STERLING**

The complainant, Steve Wilson, alleges that Harold Sterling has spent over \$5,000 in relation to his U.S. Senate campaign yet has not filed a Statement of Candidacy. The complainant also alleges that Mr. Sterling has maintained a connected unregistered exploratory committee, U.S. Senate Exploratory Committee.

In response to the complaint, the respondents state that Mr. Sterling is "testing the waters" for a possible candidacy for Senate and is not a declared candidate. The respondents also state that the exploratory committee has been engaged in "testing the waters" and not campaign activities and is not required to register with the Commission.

There is no evidence that the activity had significant impact on the process and there is no indication of any serious intent to violate FECA.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 2, 1994

Jim Mertzlufft, Treasurer  
U.S. Senate Exploratory Campaign  
P.O. Box 3076  
Memphis, TN 38173

RE: MUR 3930

Dear Mr. Mertzlufft:

On February 16, 1994, the Federal Election Commission notified U.S. Senate Exploratory Campaign ("Committee") and you, as treasurer, of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Committee and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on August 1, 1994.

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

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

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MUR 3930

FRIENDS OF HAROLD STERLING

The complainant, Steve Wilson, alleges that Harold Sterling has spent over \$5,000 in relation to his U.S. Senate campaign yet has not filed a Statement of Candidacy. The complainant also alleges that Mr. Sterling has maintained a connected unregistered exploratory committee, U.S. Senate Exploratory Committee.

In response to the complaint, the respondents state that Mr. Sterling is "testing the waters" for a possible candidacy for Senate and is not a declared candidate. The respondents also state that the exploratory committee has been engaged in "testing the waters" and not campaign activities and is not required to register with the Commission.

There is no evidence that the activity had significant impact on the process and there is no indication of any serious intent to violate FECA.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

August 2, 1994

Jim Mertzlufft, Treasurer  
Friends of Harold Sterling  
P.O. Box 3076  
Mamphis, TN 38173

RE: MUR 3930

Dear Mr. Mertzlufft:

On February 16, 1994, the Federal Election Commission notified Friends of Harold Sterling ("Committee") and you, as treasurer of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the Committee and you, as treasurer. See attached narrative. Accordingly, the Commission closed its file in this matter on August 1, 1994.

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

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

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MUR 3930

FRIENDS OF HAROLD STERLING

The complainant, Steve Wilson, alleges that Harold Sterling has spent over \$5,000 in relation to his U.S. Senate campaign yet has not filed a Statement of Candidacy. The complainant also alleges that Mr. Sterling has maintained a connected unregistered exploratory committee, U.S. Senate Exploratory Committee.

In response to the complaint, the respondents state that Mr. Sterling is "testing the waters" for a possible candidacy for Senate and is not a declared candidate. The respondents also state that the exploratory committee has been engaged in "testing the waters" and not campaign activities and is not required to register with the Commission.

There is no evidence that the activity had significant impact on the process and there is no indication of any serious intent to violate FECA.

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

August 2, 1994

Robert C. Richardson, Esq.  
1136 Hunters Lake Dr.  
Cordova, TN 38018

RE: MUR 3930  
Harold Sterling

Dear Mr. Richardson:

On February 16, 1994, the Federal Election Commission notified your client of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against your client. See attached narrative. Accordingly, the Commission closed its file in this matter on August 1, 1994.

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

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

Sincerely,

*Mary L. Taksar*

Mary L. Taksar  
Attorney

Attachment  
Narrative

24043563752

MUR 3930

FRIENDS OF HAROLD STERLING

The complainant, Steve Wilson, alleges that Harold Sterling has spent over \$5,000 in relation to his U.S. Senate campaign yet has not filed a Statement of Candidacy. The complainant also alleges that Mr. Sterling has maintained a connected unregistered exploratory committee, U.S. Senate Exploratory Committee.

In response to the complaint, the respondents state that Mr. Sterling is "testing the waters" for a possible candidacy for Senate and is not a declared candidate. The respondents also state that the exploratory committee has been engaged in "testing the waters" and not campaign activities and is not required to register with the Commission.

There is no evidence that the activity had significant impact on the process and there is no indication of any serious intent to violate FECA.

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 3930

DATE FILMED 8-31-94 CAMERA NO. 2

CAMERAMAN JMN

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