



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 3980

DATE FILMED 2-20-95 CAMERA NO. 2

CAMERAMAN JM14

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0004
1435

MENDEL RIVERS FOR CONGRESS

MUR 3980

May 21, 1994

General Counsel
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Re: Violation of 2 U.S.C. 441(d); 11 C.F.R. 110.11
by Van Hipp, Candidate for Congress, 1st
District of South Carolina.

Dear Sir:

My name is Arthur William Rashap, I live at 234 Little Oak
Villas, P.O. Box 774, Folly Beach, S.C. 29439. My home telephone
number is (803) 588-6595 and my office number is (803) 881-9683.
I am serving as campaign manager for L. Mendel Rivers, Jr. who is
a candidate for Congress from the First District in South
Carolina.

I hereby submit a complaint that Van Hipp, Jr., 521 Rice Hope
Drive, P.O. Box 702, Mount Pleasant, S.C. 29464, Telephone (803)
937-0205 who is a candidate for Congress from the First District
of South Carolina and/or the HIPP for Congress Committee of the
same address has violated the communications/advertising section
of the Federal Elections Law (2 U.S.C. 441(d); 11 C.F.R. 110.11
as follows:

On or about May 13, 1994 there were installed at least two
large (4' x 6') billboards with the message:

"Meet
Dick Cheney
May 27
937-0205"

Nothing else was on the billboards which are located along Route
17 (Johnnie Dodds Boulevard) in Mount Pleasant, South Carolina,
near the City of Charleston. I personally observed these
billboards daily and have photographed them. Enclosed are copies
of said photographs. Said Route 17 is a heavily travelled divided
four lane road.

I telephoned the number listed on Thursday, May 19, 1994 at about
10:30 A.M. and

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OFFICE OF GENERAL
COUNSEL
MAY 21 12 45 PM '94

was told that a Bar-B-Que was being held on May 27, 1994 from 12:30 to 2:00 P.M. at the Dome at Charlestowne Landing where Mr. Cheney as well as other veterans such as Harry Dent would speak. Tickets were \$25. I was also told that a sponsors' reception would be held for \$250 per ticket where Mr. Cheney would be present. Neither Mr. Hipp's name or the campaign committee were mentioned. I then asked where the money would be going and was told it was for Van Hipp.

I asked them to send tickets and information, copies of which are attached.

I respectfully submit this is a clear violation of the letter and intent of the law and regulations which are designed to inform the public about who is soliciting funds for a political campaign and who is paying for such solicitation. The provisions of the regulations require " a disclaimer . . . shall appear and be presented in a clear and conspicuous manner to give the reader, observer or listener adequate notice of the identity of persons who paid for and, where required, who authorized the communication."

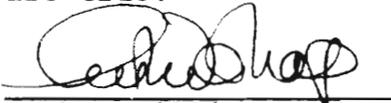
Please let me know if you require any additional information. I await word of your actions and would appreciate a copy of any correspondence from or with your office regarding this matter. Please advise if a freedom of information request will be required.

I thank you for your kind attention.

Very truly yours,


Arthur William Rashap

I hereby swear and affirm that I prepared the two page letter dated May 21, 1994 appearing above, and that the contents thereof are true.



Arthur William Rashap

Sworn to before me, a Notary Public for the State of South Carolina, County of Charleston, this 23rd day of May, 1994:



Melissa G. Brown, Notary Public for the State of South Carolina
My Commission expires on March 7, 2004.

25043625115

HIPP

U.S. CONGRESS

The Republican We Know & Trust

Honorary Co-Chairmen

Ann Edwards
Carroll Campbell, Sr.

Berkeley County

Co-Chairmen
Hon. Wade Arnette
DeAnna Trout

Charleston County

Co-Chairmen
W.E. "Sam" Applegate
Mayor Cheryll Woods-Flowers

Dorchester County

Co-Chairmen
Sheila Gallagher
Hon. Bill Whatley

Georgetown County

Co-Chairmen
Martha Batch
Jane Spillane

Horry County

Co-Chairmen
David Smith
Al Tirrell

Dear Friend:

I am pleased to know that you are interested in attending the luncheon, "A Salute to our Veterans" with special guest, Former Sec. of Defense Dick Cheney on Friday May 27th at 12:15PM. I have enclosed the ticket(s) you requested.

This event will be a special day for the campaign. We have had calls from all over the state requesting tickets to see Dick Cheney. We are committed to making this event a success and it will be with your help.

Please detach the stub of the ticket and mail it back with your check for \$25 per ticket in the reply envelope enclosed. Please take the time to mail it back to us today. Thank you for your support and I look forward to seeing you on Friday, May 27th.

Sincerely,



Van D. Hipp, Jr.

See you there!

No 799

**Van Hipp For Congress
"A SALUTE TO OUR VETERANS"
Featuring, Dick Cheney**

Name _____

Address _____

City, State, Zip _____

Phone _____

Friday, May 27th

Time: 12:30 to 2:00

**The Veterans Council for Hipp
Presents: "A SALUTE TO OUR VETERANS"**

Featuring

Former Secretary of Defense, Dick Cheney

for: "Van Hipp for U.S. Congress"

Carroll Campbell, Sr., Ann Edwards - Honorary Co-Chairmen

BBQ

**Charles Towne Landing
"The Dome"**

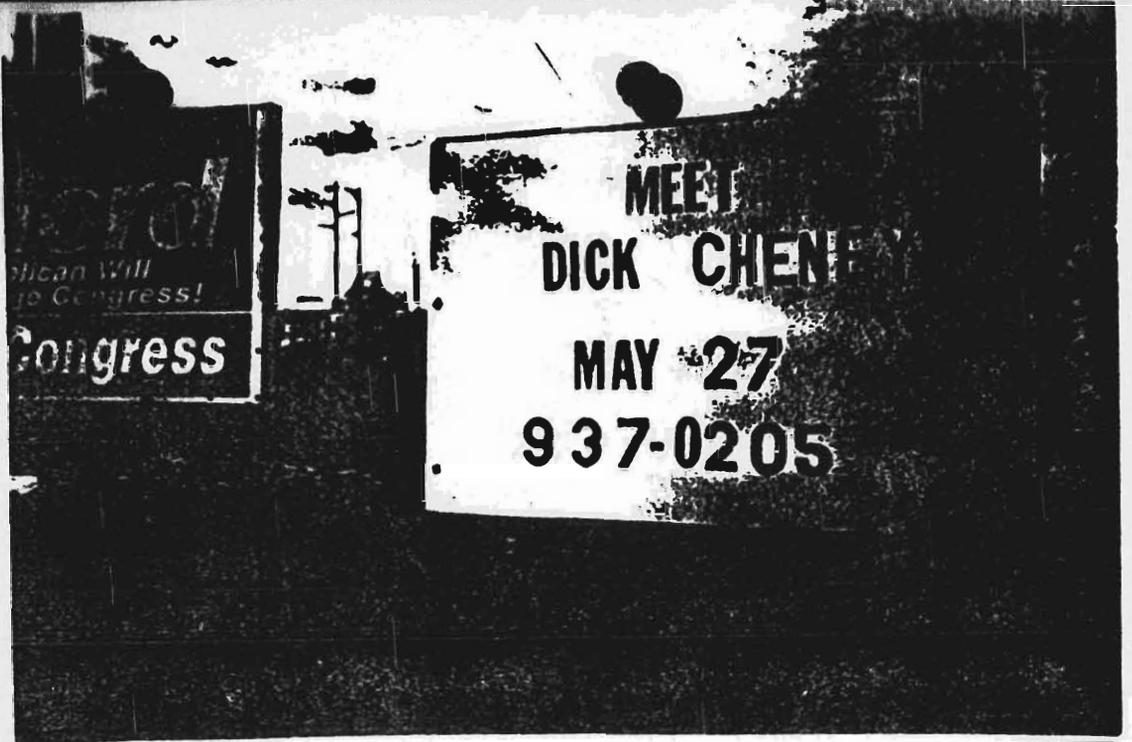
**Contributions: \$25 per person
Checks made payable to: Hipp for Congress**

Paid for by "Hipp for Congress Committee," Ellison Thomas, Treasurer

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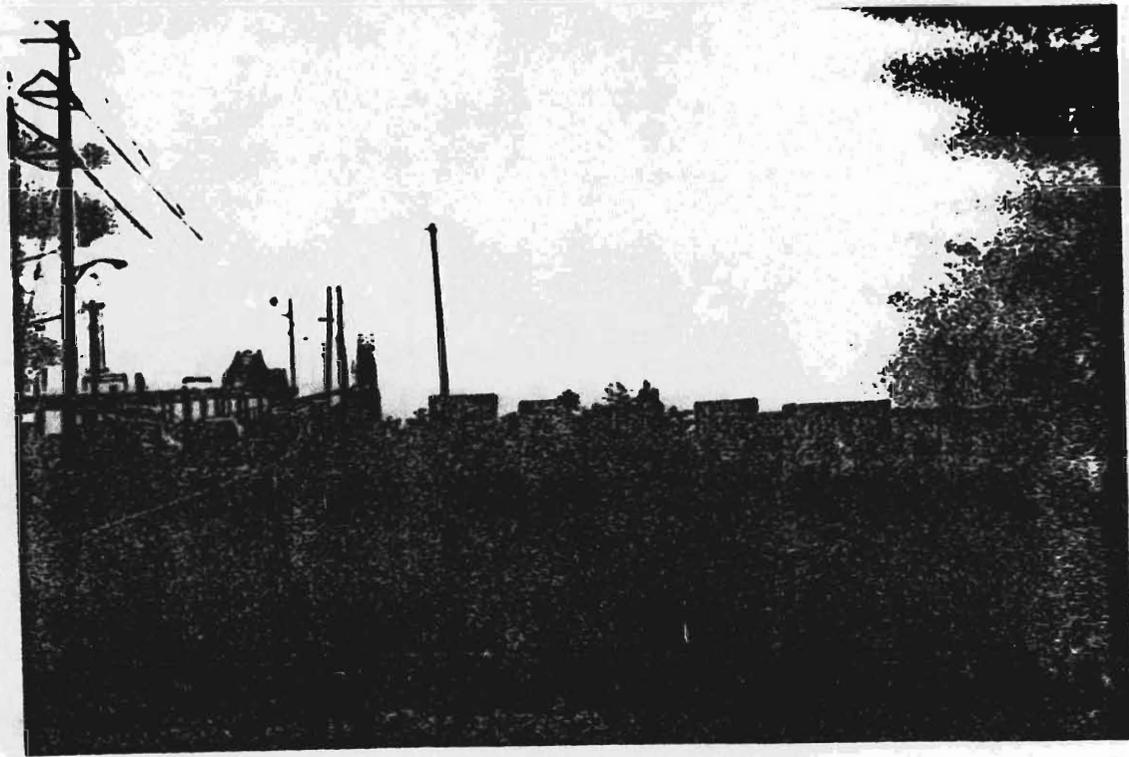
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95043625119

25043625120





FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

MAY 31, 1994

Arthur William Rashap
234 Little Oak Villas
P.O. Box 774
Folly Beach, NC 29439

RE: MUR 3980

Dear Mr. Rashap:

This letter acknowledges receipt on May 24, 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 3980. 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

25043625121



FEDERAL ELECTION COMMISSION

WASHINGTON DC 20463

MAY 31, 1994

Van Hipp, Jr.
c/o Hipp for Congress Committee
P.O. Box 702
Mt. Pleasant, NC 29465

RE: MUR 3980

Dear Mr. Hipp:

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 3980. 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.

25043625122

Van Hipp, Jr.
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

25043625123



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20461

MAY 31, 1994

William Ellison Thomas, Treasurer
Hipp for Congress Committee
P.O. Box 702
Mt. Pleasant, NC 29465

RE: MUR 3980

Dear Mr. Thomas:

The Federal Election Commission received a complaint which indicates that the Hipp for Congress Committee ("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 3980. 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.

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William Ellison Thomas, Treasurer
Hipp for Congress Committee
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

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STATEMENT OF DESIGNATION OF COUNSEL

OIGC #1567

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COMMISSION
ADMINISTRATIVE

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NUM 3980

NAME OF COUNSEL: E. BART DANIEL

ADDRESS: P.O. BOX 856

CHAS, SC 29402

TELEPHONE: (803) 722-2000

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.

6/6/94
Date

Ellie Thomas
Signature

RESPONDENT'S NAME: WILLIAM ELIZON THOMAS - TREASURER

ADDRESS: HIPP FOR CONGRESS COMMITTEE

P.O. BOX 702

MT. PLEASANT, SC 29465

TELEPHONE: HOME()

BUSINESS(803) 937-0205

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OFFICE OF GENERAL
COUNSEL
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DANIEL, LYDON & SCHOOLS, P.A.

ATTORNEYS AT LAW

SEVEN STATE STREET
P.O. BOX 856
CHARLESTON, SOUTH CAROLINA 29403

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FEDERAL ELECTION
COMMISSION

JUN 13 11 20 PM '94

E. BART DANIEL
SHERRI A. LYDON
SCOTT N. SCHOOLS

(803) 722-2000
FACSIMILE
(803) 722-6254

JUN 13 2 53 PM '94

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

June 7, 1993

Mary L. Taksar, Esquire
Central Enforcement Docket
Office of General Counsel
Federal Election Commission
999 E. Street, N.W.
Washington, DC 20463

Re: MUR-3980

Dear Ms. Taksar:

I represent in a volunteer capacity the Congressional Campaign of Van Hipp and his treasurer William Ellison Thomas. I know that you have already received the required authorization from both Mr. Hipp and Mr. Thomas for me to respond to the above referenced complaint on their behalf. None the less, I have included a verification from Mr. Thomas attesting to the response contained in this letter.

On Memorial Day Weekend (specifically Friday, May 27, 1994) former Secretary of Defense Dick Cheney visited Charleston to promote Van Hipp's Congressional Campaign. Much promotional material and extensive publicity was generated highlighting the event. Throughout the campaign Mr. Hipp and Mr. Thomas and other campaign professionals have stressed to campaign volunteers how important it is to comply with all Federal and State Election Laws.

On Monday, May 16th four signs were placed around the Charleston area. Two of the four signs placed, including the sign which gave rise to the complaint, did not have the required information in compliance with Federal Election Laws. Campaign volunteers, when constructing these handmade signs had been properly instructed to include the necessary information, but simply did not do so on the two. Since these two signs were placed on the back of an already existing Hipp for Congress sign which contained the required information they did not include it. Knowledgeable Campaign Officials viewed the signs, discovered the error and the necessary information was added. This was done sometime during the day of Tuesday, May 17th on both of the offending signs.

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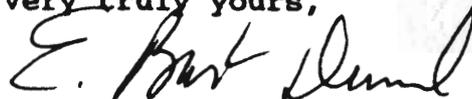
While these two signs clearly did not comply with Federal Law for some 20-24 hours, as soon as the omission was discovered it was corrected. Further, the sign was constructed by volunteers and while Mr. Thomas accepts full responsibility, their omission was one of ignorance and not intentional.

I have enclosed the following exhibits for your review which indicate that the event was promoted in full compliance with the Federal Election Laws.

1. Exhibit "A" - Copy of newspaper advertisement in The Sun News dated Sunday, May 15, 1994.
2. Exhibit "B" - Copy of newspaper advertisement in The Post and Courier dated Wednesday, May 18, 1994.
3. Exhibit "C" - Copy of newspaper advertisement in, The Post and Courier, Sunday, May 22, 1994.
4. Exhibit "D" - Copy of newspaper advertisement in, The Post and Courier, Monday, May 23, 1994.
5. Exhibit "E" - Brochure entitled "Hipp U. S. Congress an Invitation and Final Ticket for Friday, May 27th presenting "A Salute to Our Veterans".

The information which we have provided clearly indicates that the offending sign was a technical violation and as soon as Campaign Officials learned of it the matter was corrected. If I can provide any additional information or be of further assistance, please do not hesitate to contact me.

Very truly yours,



E. BART DANIEL

EBD/emh

Enclosures

25043625128

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

VERIFICATION

I, William Ellison Thomas, Treasurer, Hipp for Congress
Committee, have read the enclosed response to the Complaint filed.
It is true and correct to the best of my knowledge.

William Ellison Thomas
WILLIAM ELLISON THOMAS

Subscribed before me this

7th day of June, 1994.

Bruce H. McCall
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: April 29, 2004

25043625129

A

Paid Political Advertisement

*"Always Remember
and Never Forget"*

Join Us For
"A Salute to Our Veterans"

Featuring

Dick Cheney

Former Defense Secretary of the United States

Friday, May 27
12 noon to 2 p.m.

"The Dome" at Charles Towne Landing
West Ashley Area, Charleston, S.C.

BBQ Lunch - \$25 per person

All Proceeds Benefit Van Hipp for Congress

Call 957-0205

For More Ticket Information

Paid for by HIPP for Congress Comm. • Ellison Thomas, Treasurer • 937-0205

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5

8-A—The Post and Courier, Wednesday, May 18, 1994

Paid Advertisement

“Always Remember And Never Forget”

★ **Join Us For** ★
“A Salute to Our Veterans”

Featuring

★ **DICK CHENEY** ★

Former Defense Secretary of the United States

★ **FRIDAY-MAY 27** ★

12 noon - 2 pm

The Dome at Charles Towne Landing

BBQ Lunch \$25⁰⁰ per person

All proceeds benefit Hipp for Congress

★ **CALL 937-0205** ★
for more ticket information

Paid for by HIPP for Congress Committee Ellison Thomas, Treasurer

208-641796

05043625131

①

4-A—The Post and Courier, Sunday, May 22, 1994

Paid Advertisement

“Always Remember And Never Forget”

Join Us For

“A Salute to Our Veterans”

Featuring

★ DICK CHENEY ★

Former Defense Secretary of the United States

FRIDAY-MAY 27

12 noon - 2 pm

The Dome at Charles Towne Landing

BBQ Lunch \$25⁰⁰ per person

All proceeds benefit Hipp for Congress

SPECIAL GUESTS

Clebe M^cClary Harry Dent

★ CALL 937-0205 ★

for more ticket information

Paid for by HIPP for Congress Committee Ellison Thomas, Treasurer

NR-0178

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D

The Post and Courier, Monday, May 23, 1994—3-A

•Paid Advertisement•

“Always Remember And Never Forget”



Join Us For



“A Salute to Our Veterans”

Featuring



DICK CHENEY



Former Defense Secretary of the United States

FRIDAY-MAY 27



12 noon - 2 pm



The Dome at Charles Towne Landing

BBQ Lunch \$25⁰⁰ per person

All proceeds benefit HIPP for Congress

SPECIAL GUESTS

Clebe M'Clary

Harry Dent



CALL 937-0205



for more ticket information

Paid for by HIPP for Congress Committee Ellison Thomas, Treasurer

206-641706

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(E)

Friday, May 27th

Time: 12:30 to 2:00

**The Veterans Council for Hipp
Presents: "A SALUTE TO OUR VETERANS"**



Featuring
Former Secretary of Defense, Dick Cheney
for: "Van Hipp for U.S. Congress"
Carroll Campbell, Sr., Ann Edwards - Honorary Co-Chairmen

BBQ

Contribution: \$25 per person
Checks made payable to: Hipp for Congress

Charles Towne Landing
"The Dome"

Paid for by "Hipp for Congress Committee." Elison Thomas, Treasurer

25043625134

No. 2393

HIPP

U.S. CONGRESS

An Invitation
from
Congressional Candidate

Van Hipp

to attend

"A Salute to Our Veterans"

A Luncheon with Honored Guest

Dick Cheney

Former Defense Secretary
of the United States

Speaking on

"The Strength of America"

Friday, May 27

12 Noon to 1:00 p.m.

The Dome at Charlestown Landing



*"Join us for a time of celebration and dedication
as we remember those whose sacrifices have ensured our
freedom in the past and consider the importance of
maintaining that same freedom for our future
and the future of our children." --Van Hipp*

Ticket Information

Cost: \$25.00 / Person

Menu: BBQ

Tickets Must be Purchased in Advance

To Purchase Tickets, Contact:

Hipp for Congress Office

937-0205

Make All Checks Payable To:

Hipp for Congress

P.O. Box 702 Mt. Pleasant, SC 29465

STATE OF SOUTH CAROLINA)
)
COUNTY OF CHARLESTON)

VERIFICATION

I, William Ellison Thomas, Treasurer, Hipp for Congress Committee, have read the enclosed response to the Complain filed. It is true and correct to the best of my knowledge.

William Ellison Thomas
WILLIAM ELLISON THOMAS

Subscribed before me this

7th day of June, 1994.

Barnet C. McNeil
NOTARY PUBLIC FOR SOUTH CAROLINA

My Commission Expires: April 29, 2004

25043625136

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FEDERAL ELECTION
COMMISSION
SECRETARIAT

JAN 4 10 18 AM '95

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

FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

MURs #3980 and #3995
DATE COMPLAINTS FILED: May 26 and June 16, 1994
DATE OF NOTIFICATION: May 31 and June 22, 1994
DATE ACTIVATED: September 7, 1994
STAFF MEMBER: Tracey L. Ligon

COMPLAINANTS: Arthur William Rashap
K.G. Watson

RESPONDENTS: Hipp for Congress Committee and William
Ellison Thomas, as treasurer.

Hudgens for Congress and Tim Waters,
as treasurer.

RELEVANT STATUTE: 2 U.S.C. § 441d

INTERNAL REPORTS CHECKED: None

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

These matters were initiated by signed sworn complaints filed with the Federal Election Commission ("the Commission") by Arthur William Rashap and K.G. Watson on May 26 and June 16, 1994, respectively. (Attachments 1 and 2). In the complaint of MUR 3890, Mr. Rashap alleges that Van Hipp, Jr. and/or the Hipp for Congress Committee violated 2 U.S.C. § 441d by posting billboards soliciting funds for a federal candidate without a disclaimer identifying who authorized and paid for the communication. In the complaint of MUR 3995, Mr. Watson alleges that the Hudgens for Congress committee failed to include a disclaimer in a letter which advocated the election of Ralph Hudgens.

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II. FACTUAL AND LEGAL ANALYSIS

Pursuant to 2 U.S.C. § 441d(a), whenever any person makes an expenditure for the purpose of financing communications expressly advocating the election or defeat of a clearly identified candidate, or solicits any contribution through any broadcasting station, newspaper, magazine, outdoor advertising facility, direct mailing, or any other type of general public political advertising, such communication, if paid for and authorized by a candidate, an authorized political committee of a candidate, or its agents, shall clearly state that the communication has been paid for by such authorized political committee. If such communication is paid for by other persons but authorized by a candidate, an authorized political committee of a candidate, or its agents, the communication shall clearly state that it is paid for by such other persons and authorized by such authorized political committee. If such communication is not authorized by a candidate, an authorized political committee of a candidate, or its agents, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee. Such person is not required to place the disclaimer on the front face or page of any such material, as long as a disclaimer appears within the communication, except on communication, such as billboards, that contain only a front face.

11 C.F.R. § 110.11(a)(1).

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1. MUR 3980 - The Hipp for Congress Committee

As stated above, the complainant alleges that Van Hipp, Jr. and/or the Hipp for Congress Committee violated 2 U.S.C. § 441d by posting billboards soliciting funds for a federal candidate without a disclaimer identifying who authorized and paid for the communication. According to the complaint, on or about May 13, 1994, at least two billboards were posted along Route 17 in Mount Pleasant, South Carolina bearing the following message:

"Meet
Dick Cheney
May 27
937-0205"

The complainant stated that Route 17 is a heavily traveled four lane road. In the complaint dated May 21, 1994, the complainant claimed that he observed the billboards daily. The event that the billboards promoted was held on May 27, 1994.

The complainant stated that on May 19, 1994, he telephoned the number in the message and was told that a Bar-B-Que was being held on May 27, 1994 from 12:30 to 2:00 p.m. at which Dick Cheney and other veterans such as Harry Dent would speak and that the tickets were twenty-five dollars. He stated that he was also told that a sponsors' reception would be held at a cost of two hundred fifty dollars per ticket where Mr. Cheney would be present. The complainant stated that neither the name of Mr. Van Hipp or the Hipp for Congress Committee were mentioned during the conversation until he asked where the money would be going, at which time he was told that it was for Mr. Van Hipp.

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The complainant further stated that he asked the person on the telephone to send him tickets and information, copies of which he submitted with the complaint. The information regarding the fundraiser sent to the complainant was contained in a letter typed on Hipp for Congress letterhead and signed by Mr. Van Hipp. The letter bore a proper disclaimer on its face. The ticket for the event also bore a proper disclaimer.

In responding to the complaint, counsel for the Hipp for Congress Committee and William Ellison Thomas, as treasurer, stated that on May 16, 1994 campaign volunteers placed four signs around the Charleston, South Carolina area, two of which did not contain disclaimers in compliance with federal election law. He stated that the campaign volunteers that constructed the signs, which were handmade, had been instructed to include the necessary information but failed to do so. He further stated that as soon as knowledgeable campaign officials viewed the signs on the next day, May 17, 1994, the necessary information was added. In addition, counsel enclosed copies of six different pieces of campaign literature to support his contention that the event to which the signs related was otherwise promoted in full compliance with federal election laws.

The facts of this case raise the difficult issue of whether the billboards here were solicitations within the meaning of the statute and regulation, and themselves required disclaimers. Although the billboards advertised a fundraising event and listed the date of the event and a telephone number, they did not contain the cost of the event or any language soliciting a contribution.

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It was not until a later time when the viewer actually called the telephone number shown on the billboards that the cost of the event was provided and a solicitation occurred. The material sent to an individual as a result of a successful solicitation bore a proper disclaimer.

If all of the written material in question had been part of one package, there would have been no violation because a proper disclaimer appeared on the ticket to the event. It is only because the message on the billboards was separated by time and space from the ticket to the event that the possibility of a violation even arises. Yet, this same separation raises a serious question as to whether a disclaimer was even required on the billboards. On balance, we have concluded that a disclaimer was required. Despite the separation of time and space, the message on the billboards and the information provided via telephone were so tied together as to render the billboards themselves an indirect form of solicitation. An important factor in this regard is that all of the necessary information was not listed on the billboards; anyone wishing to attend the event would have had to call the telephone number shown on the billboards to ascertain the time and location of the event. Therefore, the billboards at issue indirectly solicited contributions to the committee and required a disclaimer identifying who paid for and/or authorized the communication pursuant to 2 U.S.C. § 441d. Respondent admits that for a twenty to twenty-four hour period the billboards did not contain a disclaimer in compliance with federal law. Therefore, this Office recommends that the Commission find reason

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to believe that the Hipp for Congress Committee and William Ellison Thomas, as treasurer, violated 2 U.S.C. § 441d.

However, this Office recommends that the Commission send an admonishment letter to the respondents and take no further action in this matter in light of the following considerations.

Respondents have argued that volunteers were asked to place the necessary disclaimer on the sign, and that they made an error in failing to do so. Respondents also stated that they promptly corrected the billboards by adding a proper disclaimer the day after the billboards were erected. This story appears credible as the follow-up material sent to the complainant by the committee, including a letter and a ticket to the event promoted by the billboards, bore proper disclaimers. Since anyone requesting additional written information regarding the event would have received materials bearing the proper disclaimer, this Office does not believe this matter warrants the use of additional resources.

2. MUR 3995 - The Hudgens for Congress Committee

As stated above, the complainant in this matter alleges that the Hudgens for Congress committee failed to include a disclaimer in a letter which advocated the election of Mr. Ralph T. Hudgens. The complainant stated that he had not received the letter in the mail himself but that he had been given the letter with information that it was received in the mail in the tenth district of Georgia. The complainant stated that the Hudgens for Congress committee is responsible for the letter since the writer is a paid staffer for Mr. Hudgens.

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In responding to the complaint, Mr. Ralph T. Hudgens acknowledged the requirement that a disclaimer be included in material advocating the election or defeat of a particular candidate, and admitted that the letter at issue advocated his election. However, Mr. Hudgens quoted that part of 11 C.F.R. § 110.11(a)(1) which provides that a disclaimer need not be placed on the front face or page of any such material as long as it appears within the communication, and asserted that the complainant did not provide the Commission with the complete mailing. Mr. Hudgens enclosed a copy of other materials that he claims were included in the mailing, which include a biographical card bearing a proper disclaimer.

While the letter submitted with the complaint in this matter expressly advocates the election of a clearly identified candidate and does not include a disclaimer, the information currently in the file supports the respondents' contention that the mailing did not consist only of the letter at issue but also included additional material. Specifically, at the bottom of the letter, there is a handwritten truncated notation that appears to be "Incl," the abbreviation of a variant of enclosure. Additionally, in the complaint, the complainant himself refers to the letter at issue as the enclosed "letter(Incl)." Moreover, the complainant's admission that he did not personally receive the letter in the mail himself but was given the letter by someone else further supports respondents' position that additional materials were included in the mailing. Therefore, this Office recommends that the Commission find no reason to believe that the Hudgens for

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Congress committee and Tim Waters, as treasurer violated 2 U.S.C. § 441d.¹

III. RECOMMENDATIONS

1. Find reason to believe that the Hipp for Congress Committee and William Ellison Thomas, as treasurer, violated 2 U.S.C. § 441d, issue an admonishment, and take no further action against these respondents.

2. Close the file in MUR 3980.

3. Find no reason to believe that the Hudgens for Congress committee and Tim Waters, as treasurer violated 2 U.S.C. § 441d.

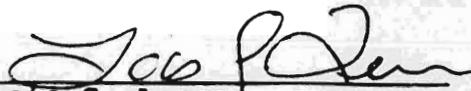
2 5 0 4 3 6 2 5 1 4 4

1. The complainant in this matter also expressed his belief that a statement contained in the letter regarding the donating of funds anonymously is misleading and incorrect. In the letter, the writer stated: "Even if you have already supported another candidate, you can still donate up to \$100.00 to Ralph's campaign, and your donation can remain anonymous." In this regard, the respondent stated that the writer was referring to the "FEC requirement of itemizing only contributions of more than \$200.00," and was simply stating that her friends could avoid being listed on the "FEC Report" with a donation of one hundred dollars. While the statement at issue is not a violation of the FECA, it is, as the complainant contends, misleading. Not only is the Committee required to keep records of all contributions, but it is required to report any contributions that, in the aggregate, exceed \$200. Thus, contributions totaling less than \$200 are not anonymous. Accordingly, we recommend that any letter the Commission sends to the respondents includes an explanation of the misleading nature of respondents' solicitation letter and requests that future letters be rephrased to more accurately reflect the law.

4. Close the file in MUR 3995.
5. Approve the appropriate letters.

Lawrence M. Noble
General Counsel

1/3/95
Date

BY: 
Lois G. Lerner
Associate General Counsel

Attachments:

1. Complaint in MUR 3980
2. Complaint in MUR 3995
3. Hipp for Congress Committee Response
4. Hudgens for Congress Response
5. Factual and Legal Analysis - MUR 3980

25043625145

Sign

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)	
Hipp for Congress Committee and)	
Ellison Thomas, as treasurer.)	MUR 3980
)	
Hudgens for Congress and Tim Waters))	MUR 3995
as treasurer.)	

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on January 24, 1995, do hereby certify that the Commission took the following actions with respect to MUR 3980 and MUR 3995:

1. Failed in a vote of 3-3 to approve the recommendations in the General Counsel's report to take the following actions:
 - a) Find reason to believe that the Hipp for Congress Committee and William Ellison Thomas, as treasurer, violated 2 U.S.C. § 441d, issue an admonishment, and take no further action against these respondents.
 - b) Close the file in MUR 3980.
 - c) Find no reason to believe that Hudgens for Congress and Tim Waters, as treasurer, violated 2 U.S.C. § 441d.

(continued)

25043625146

Federal Election Commission
Certification: MURS 3980 and 3995
January 24, 1995

Page 2

- d) Close the file in MUR 3995.
- e) Approve the appropriate letters as recommended in the General Counsel's January 3, 1995 report.

Commissioners McDonald, McGarry, and Potter voted affirmatively to approve the General Counsel's recommendations. Commissioners Aikens, Elliott, and Thomas dissented.

- 2. Decided by a vote of 5-0 to close the files in MUR 3980 and MUR 3995 and send appropriate letters.

Commissioners Aikens, Elliott, McDonald, McGarry, and Thomas voted affirmatively for this decision. Commissioner Potter was not present.

Attest:

1-25-95
Date

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

25043625147



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1995

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**

Arthur William Rashap
234 Little Oak Villas
P.O. Box 774
Folly Beach, NC 29439

RE: MUR 3980

Dear Mr. Rashap:

The Federal Election Commission has reviewed the allegations contained in your complaint dated May 21, 1994. On January 24, 1995, the Commission considered your complaint, but was equally divided on whether to find reason to believe the HIPP for Congress Committee and William Ellison Thomas, as treasurer, violated 2 U.S.C. § 441d of the Federal Election Campaign Act of 1971, as amended.

Accordingly, on January 25, 1995, the Commission closed the file in this matter. A Statement of Reasons providing a basis for the Commission's decision will follow. The Federal Election Campaign Act allows a complainant to seek judicial review of the Commission's dismissal of this action. See 2 U.S.C. § 437g(a)(8).

The General Counsel's Report upon which the Commission relied in reviewing this matter is enclosed. Portions of the report have been obliterated to maintain the confidentiality of the parties involved in a separate matter that was also discussed in the report. If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

Enclosures:
General Counsel's Report

5043625148



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

February 1, 1995

W. Ellison Thomas, Treasurer
Hipp for Congress Committee
P.O. Box 702
Mt. Pleasant, SC 29465

RE: MUR 3980

Dear Mr. Thomas:

On May 31, 1994, the Federal Election Commission notified you of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended.

On January 24, 1995, the Commission considered the complaint but was equally divided on whether to find reason to believe the Hipp for Congress Committee, and you, as treasurer, violated 2 U.S.C. § 441d. Accordingly, the Commission closed its file in this matter. This matter will become part of the public record within 30 days. Should you wish to submit any materials to appear on the public record, please do so within ten days of your receipt of this letter. Please send such materials to the General Counsel's Office.

If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 219-3690.

Sincerely,

Lawrence M. Noble
General Counsel

BY: 
Lois G. Lerner
Associate General Counsel

25043625149



FEDERAL ELECTION COMMISSION
WASHINGTON DC 20463

THIS IS THE END OF MUR # 3980

DATE FILMED 2-22-55 CAMERA NO. 2

CAMERAMAN JMH

25043625150



FEDERAL ELECTION COMMISSION
WASHINGTON, DC 20461

Date: 3/15/95

Microfilm
 Public Records
 Press

THE ATTACHED MATERIAL IS BEING ADDED TO CLOSED MUR 3980

25043631720



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Convery

MEMORANDUM

TO: Commissioners
Staff Director Surina
General Counsel Noble
Press Officer Harris

FROM: Marjorie W. Emmons/Mary W. Dove
Secretary of the Commission

DATE: March 15, 1995

SUBJECT: Statement of Reasons for MUR 3980

Attached is a copy of the Statement of Reasons in MUR 3980 signed by Commissioners Aikens, Elliott, and Thomas. This was received in the Commission Secretary's Office on Wednesday, March 15, 1995 at 2:44 p.m.

Attachment

c: V. Convery, OGC

25043631721



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

In the Matter of

Hipp for Congress Committee and
William Ellison Thomas, as treasurer

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MUR 3980

STATEMENT OF REASONS

COMMISSIONER SCOTT E. THOMAS
COMMISSIONER JOAN D. AIKENS
COMMISSIONER LEE ANN ELLIOTT

In MUR 3980, the Commission considered whether certain billboards required a disclaimer under 2 U.S.C. §441d(a). In view of Commission precedent as well as the fact that the billboards make no mention of any federal candidate, election or political committee, we concluded that the billboards did not require a disclaimer. Accordingly, we voted against the General Counsel's recommendation that the Commission find reason to believe that the Hipp for Congress Committee violated §441d.

The Federal Election Campaign Act of 1971, as amended ("the Act") provides that whenever any person makes an expenditure for the purpose of financing a communication which solicits contributions through general public advertising, such communication must include a disclaimer clearly stating the name of the person who paid for the communication and indicating whether the communication was authorized by any candidate or candidate's authorized committee. 2 U.S.C. §441d(a).

On May 26, 1994, Arthur Rashap ("the complainant") filed a complaint with the Federal Election Commission alleging that the Hipp for Congress Committee ("the Committee") had violated §441d. The complaint stated that on or about May 13, 1994, he observed two billboards along the side of a road with the message:

MEET
DICK CHENEY
MAY 27
937-0205

25743631722

There was no disclaimer on these billboards indicating who paid for the billboards and whether it was authorized by any candidate. Upon calling that number, complainant states he was told that a Bar-B-Que and reception for Dick Cheney was being held on May 27 and that tickets for those events were \$25 and \$250 respectively. Complainant asserts that only after asking was he told that money received for these events would be going to the Hipp for Congress Committee. The complainant then states that he asked for and received tickets and information regarding the event. The information and tickets both bore a proper disclaimer.

On January 24, 1995, the Commission considered the General Counsel's Report which recommended that the Commission find reason to believe that the Committee violated 2 U.S.C. §441d. The General Counsel's Report concluded that the billboards constituted solicitations for contributions and, thus, required disclaimers. The General Counsel's Report explained that "Despite the separation of time and space, the message on the billboards and the information provided via telephone were so tied together as to render the billboards themselves an indirect form of solicitation." General Counsel's Report at 5.

The General Counsel's legal recommendation failed to secure the four affirmative votes necessary to make a reason to believe determination. 2 U.S.C. §437g(a)(2). Commissioners McDonald, McGarry, and Potter supported the General Counsel's recommendation, and Commissioners Aikens, Elliott, and Thomas opposed.

The legal issue in this matter is settled by the Commission's decision in Advisory Opinion 1980-67. 1 Fed. Elec. Camp. Fin. Guide (CCH) ¶5527. In that Advisory Opinion, the Commission concluded that a disclaimer would not be needed on an invitation to a reception (held for the purpose of expressly advocating a candidate and at which there may be a solicitation) unless there appeared, on the invitation itself, a solicitation or express advocacy on behalf of the candidate. The Commission stated that "in the absence of language which either expressly advocates the election or defeat of a candidate or constitutes a contribution solicitation, that is, requests contributions or gives notice of a fundraising event or activity, a communication does not come within the scope of §441d." Advisory Opinion 1980-67 at 10.620. Finding that "neither express advocacy nor a solicitation is contained in the communication," the Commission concluded in Advisory Opinion 1980-67 that "a §441d statement is not required on the invitations." Id.

Similarly, there is neither express advocacy nor a solicitation contained in the billboards at issue in MUR 3980. The billboards simply state:

MEET
DICK CHENEY
MAY 27
937-0205

25743631723

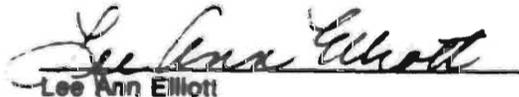
There is no mention of a federal candidate, election or political committee. Nor is there any mention of a time or place for the event. Indeed, the information provided in the billboards in MUR 3980 is far less than the information provided in one of the invitations at issue in Advisory Opinion 1980-67 where not only was the name of the federal candidate featured, but the time and place of the event were also provided. Given the Commission's decision in Advisory Opinion 1980-67, and the similar circumstances presented in MUR 3980, we voted against the General Counsel's recommendation to find reason to believe that the committee violated §441d by failing to place a disclaimer on its billboards.



Scott E. Thomas
Commissioner



Joan D. Alkens
Commissioner



Lee Ann Elliott
Commissioner

3-15-95
Date

25043631724