



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4111

DATE FILMED 3/19/96 CAMERA NO. 2

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# TENNESSEE DEMOCRATIC PARTY

FEDERAL ELECTION COMMISSION  
JANE ESKIND, Chairman  
WILL CHEEK, Vice-Chairman  
BOBBIE CALDWELL, Secretary  
HENRY McCALL, Treasurer

MUR 4111

October 29, 1994

RECEIVED  
FEDERAL ELECTION  
COMMISSION  
OFFICE OF GENERAL  
COUNSEL  
OCT 31 9 05 AM '94

Federal Election Commission  
999 E Street NW  
Washington D.C. 20040

To whom it may concern:

Please find attached a Complaint we would like to file with the Federal Election Commission for review and appropriate action.

Should you require any additional data, do not hesitate to contact me at the address and phone number listed below. Thank you for your prompt attention to this inquiry.

Sincerely

David Hickey  
Executive Director

Encl.

26043724415



Before the Federal Election Commission  
Washington D.C.

Oct 31 9 06 AM '94

In re: **Van Hilleary for Congress Committee**

No.: 4111

### COMPLAINT AND INQUIRY

Based upon reports submitted by the Van Hilleary for Congress Committee (hereinafter referred to as "Hilleary Committee") to the Federal Election Commission (hereinafter referred to as "FEC") for the purpose of itemizing income and expenditures of the Committee, as is required by Federal law, there appear to be several instances in which information required by the FEC has been improperly reported or omitted entirely. Such actions appear to be in violation of Federal law.

#### I

Pursuant to 11 C.F.R. Section 104.3 (d) (2), any political committee which takes out a loan for purposes of funding the election efforts of the committee "shall submit a copy of the loan or line of credit agreement which describes the terms and conditions of the loan or line of credit when it files Schedule C-1."

In the present instance, the Hilleary Committee apparently took out a loan from the Bank of Rhea County for \$40,050.00 which was to be secured with unidentified real property owned by Van Hilleary. Although the Schedule C-1 was filed with the April 15, 1994 Quarterly Report, the Hilleary Committee apparently failed to file a signed copy of the loan agreement with the report, as is required by Federal law. Consequently, the Hilleary committee appears to have failed to properly and fully disclose the full terms of the loan and to specify the collateral used.

#### II

Pursuant to 2 U.S.C. 439a, all political campaign committees are required to file a copy of their FEC financial disclosure reports with the office of their home state which is designated to receive and house copies of such reports. In Tennessee, copies are to be filed with the Registry of Election Finance.

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In the present instance, the Hilleary Committee failed to file a copy of its April 15, 1994 Quarterly Report with the Registry of Election Finance until April 29, 1994. At the time of the filing, Hilleary Campaign Manager Jay Warshaw indicated that he had only "recently been informed" of the requirement that the report be filed with the state. Ironically, Mr. Warshaw had signed the cover letter of the copy of the Hilleary Committee's 1993 Year End Report which was delivered to the Registry of Election Finance. Thus, the Hilleary Committee appears to have violated the requirements of 2 U.S.C. 439a.

III

Pursuant to 11 C.F.R. Section 104.3 (d)(1), the date and amount of all loans made by political committees are to be reported to the Federal Election Commission. As well, pursuant to 11 C.F.R. Section 104.3 (d)(3), a new FEC Form C-1 is to be filed "each time a loan or line of credit is restructured" to change the terms of the loan.

In the present instance, the Hilleary campaign has apparently failed to accurately report total loans for 1994. In the April 15, 1994 Quarterly Report, the Hilleary Campaign reported loan totals of \$44,500. However, in the subsequent report due July 15, 1994, the annual total was reported to be \$35,500. There is no clarification or explanation of this irreconcilable difference. It appears that the loan totals have been improperly reported, in violation of Federal law.

IV

Pursuant to 11 C.F.R. Section 100.12, the occupation and employer of every individual contributor who donates \$200.00 or more.

In the present instance, the Hilleary Committee has failed to provide such information on at least 22 individual contributors.

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**CONCLUSION**

Based upon the information set forth above, the Tennessee Democratic Party requests that the Federal Election Commission investigate these actions by the Hilleary Committee and, if they are found to be in violation of Federal law, call on the Hilleary Committee to undertake immediate remedial action and to assess appropriate penalties on the Hilleary Committee where law so demands.

Respectfully Submitted,

**TENNESSEE DEMOCRATIC PARTY**

By: David C. Hickey  
David Hickey  
Executive Director  
1808 West End Ave., Suite 600  
Nashville, TN 37203

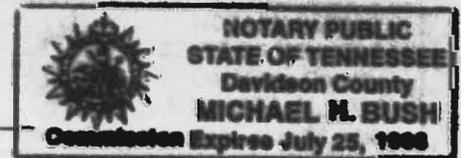
**NOTARY SEAL**

Sworn to and subscribed before me this 29 day of October, 1994.

Michael H. Bush

Notary Public

My commission expires: July 25, 1998



26043724418



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

November 7, 1994

David Hickey, Executive Director  
Tennessee Democratic Party  
1808 West End Avenue, Suite 600  
Nashville, TN 37203-3315

RE: MUR 4111

Dear Mr. Hickey:

This letter acknowledges receipt on October 31, 1994, of the complaint you filed on behalf of the Tennessee Democratic Party 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 4111. 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 D. Taksar (gma)*

Mary D. Taksar, Attorney  
Central Enforcement Docket

Enclosure  
Procedures

26043724419



FEDERAL ELECTION COMMISSION  
WASHINGTON, DC 20463

November 7, 1994

Bob Nicholas, Treasurer  
Van Hilleary for Congress  
P.O. Box 492  
Crossville, TN 38557

RE: NUR 4111

Dear Mr. Nicholas:

The Federal Election Commission received a complaint which indicates that Van Hilleary for Congress ("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 NUR 4111. 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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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. Takser (gzm)*  
Mary L. Takser, Attorney  
Central Enforcement Docket

**Enclosures**

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

cc: Van Hilleary

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BEFORE THE FEDERAL ELECTION COMMISSION FEB 6 12 10 PM '96

In the Matter of

)  
) Enforcement Priority  
)

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

**I. INTRODUCTION**

This report is the General Counsel's Report to recommend that the Commission no longer pursue the identified lower priority and stale cases under the Enforcement Priority System.

**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 and cases that, based on their rating, do not warrant pursuit relative to other pending cases are placed in this category. 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 10 cases which do not warrant further pursuit relative to the other pending cases.<sup>1</sup> A short description of each case and the factors leading to assignment of a relatively

1. These matters are: MUR 4165 (Attachment 2); MUR 4187 (Attachment 3); MUR 4188 (Attachment 4); MUR 4199 (Attachment 5); MUR 4211 (Attachment 6); MUR 4212 (Attachment 7); MUR 4216 (Attachment 8); MUR 4224 (Attachment 9); MUR 4243 (Attachment 10); MUR 4245 (Attachment 11).

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low priority and consequent recommendation not to pursue each case is attached to this report. See Attachments 2-11. As the Commission requested, this Office has attached the responses to the complaints for the externally-generated matters and the referrals for matters referred by the Reports Analysis Division in instances where this information was not previously circulated. See Attachments 2-11.

**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 33 cases that

do not

warrant further investment of significant Commission resources.<sup>2</sup>

2. These matters are: PH 308 (Attachment 12); RAD 94L-29 (Attachment 13); RAD 94L-34 (Attachment 14); RAD 94NF-10 (Attachment 15); RAD 94NF-13 (Attachment 16); MUR 4027 (Attachment 17); MUR 4028 (Attachment 18); MUR 4033 (Attachment 19); MUR 4042 (Attachment 20); MUR 4045 (Attachment 21); MUR 4047 (Attachment 22); MUR 4049 (Attachment 23); MUR 4057 (Attachment 24); MUR 4059 (Attachment 25); MUR 4062 (Attachment 26); MUR 4065 (Attachment 27); MUR 4066 (Attachment 28); MUR 4057 (Attachment 29); MUR 4069 (Attachment 30); MUR 4070 (Attachment 31); MUR 4077 (Attachment 32); MUR 4079 (Attachment 33); MUR 4086 (Attachment 34); MUR 4089 (Attachment 35); MUR 4095 (Attachment 36); MUR 4099 (Attachment 37); MUR 4102 (Attachment 38); MUR 4104 (Attachment 39); MUR 4111 (Attachment 40); MUR 4113 (Attachment 41); MUR 4117 (Attachment 42); MUR 4127 (Attachment 43); and MUR 4132 (Attachment 44).

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Since the recommendation not to pursue the identified cases is based on staleness, this Office has not prepared separate narratives for these cases. As the Commission requested, the responses to the complaints for the externally-generated matters and the referrals for the internally-generated matters are attached to the report in instances where this information was not previously circulated. See Attachments 12-44.

26043724424  
This Office recommends that the Commission exercise its prosecutorial discretion and no longer pursue the cases listed below in Section III.A and III.B effective February 13, 1996. By closing the cases effective February 13, 1996, CED and the Legal Review Team will respectively have the additional time necessary for preparing the closing letters and the case files for the public record.

**III. RECOMMENDATIONS**

A. Decline to open a MUR and close the file effective February 13, 1996 in the following matters:

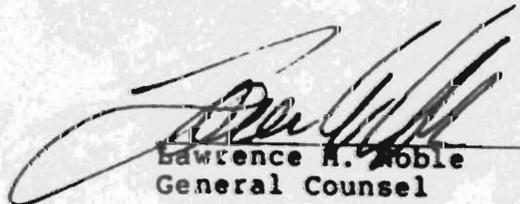
- 1) PM 308
- 2) RAD 94L-29
- 3) RAD 94L-34
- 4) RAD 94WIF-10
- 5) RAD 94NF-13

B. Take no action, close the file effective February 13, 1996, and approve the appropriate letter in the following matters:

- 1) MUR 4027
- 2) MUR 4028
- 3) MUR 4033
- 4) MUR 4042
- 5) MUR 4045
- 6) MUR 4047
- 7) MUR 4049
- 8) MUR 4057
- 9) MUR 4059
- 10) MUR 4062
- 11) MUR 4065
- 12) MUR 4066
- 13) MUR 4067
- 14) MUR 4069
- 15) MUR 4070
- 16) MUR 4077
- 17) MUR 4079
- 18) MUR 4086
- 19) MUR 4089
- 20) MUR 4095
- 21) MUR 4099
- 22) MUR 4102
- 23) MUR 4104
- 24) MUR 4111
- 25) MUR 4113
- 26) MUR 4117
- 27) MUR 4127
- 28) MUR 4132
- 29) MUR 4165
- 30) MUR 4187
- 31) MUR 4188
- 32) MUR 4199
- 33) MUR 4211
- 34) MUR 4212
- 35) MUR 4216
- 36) MUR 4224
- 37) MUR 4243
- 38) MUR 4245

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2/6/96  
Date

  
Lawrence H. Noble  
General Counsel

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of  
Enforcement Priority

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Agenda Document #X96-13

CORRECTED CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission, do hereby certify that the Commission decided by votes of 4-0 to take the following action in the above-captioned matter:

A. Decline to open a MUR and close the file effective March 5, 1996, in the following matters:

- 1) FM 308
- 2) RAD 94L-29
- 3) RAD 94L-34
- 4) RAD 94MF-10
- 5) RAD 94MF-13

B. Take no action, close the file effective March 5, 1996, and approve appropriate letter in the following matters:

- 1) MUR 4027
- 2) MUR 4028
- 3) MUR 4033
- 4) MUR 4042
- 5) MUR 4045
- 6) MUR 4047
- 7) MUR 4049
- 8) MUR 4057
- 9) MUR 4059

(continued)

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Federal Election Commission  
Certification: Enforcement Priority  
March 6, 1996

Page 2

- 10) MUR 4062
- 11) MUR 4065
- 12) MUR 4066
- 13) MUR 4067
- 14) MUR 4069
- 15) MUR 4070
- 16) MUR 4077
- 17) MUR 4079
- 18) MUR 4086
- 19) MUR 4089
- 20) MUR 4095
- 21) MUR 4099
- 22) MUR 4102
- 23) MUR 4104
- 24) MUR 4111
- 25) MUR 4113
- 26) MUR 4117
- 27) MUR 4127
- 28) MUR 4132
- 29) MUR 4165
- 30) MUR 4187
- 31) MUR 4188
- 32) MUR 4199
- 33) MUR 4211
- 34) MUR 4212
- 35) MUR 4216
- 36) MUR 4224
- 37) MUR 4243
- 38) MUR 4245

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Federal Election Commission  
Certification: Enforcement Priority  
March 5, 1996

Page 3

Commissioners Aikens, Elliott, McDonald, and Thomas  
voted affirmatively on the above-noted decisions.  
Commissioner McGarry was not present.

Attest:

3/7/96  
Date

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

06043724428



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 7, 1996

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

David Hickey, Executive Director  
Tennessee Democratic Party  
1808 West End Avenue, Suite 600  
Nashville, TN 37203-3315

RE: MUR 4111

Dear Mr. Hickey:

On October 31, 1994, the Federal Election Commission received the complaint you filed on behalf of the Tennessee Democratic Party alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission exercised its prosecutorial discretion to take no action in the matter. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 5, 1996. 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 (JBT)*

Mary L. Taksar, Attorney  
Central Enforcement Docket

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW  
DEDICATED TO KEEPING THE PUBLIC INFORMED

06043724429



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

March 7, 1996

Bob Nichols, Treasurer  
Van Hilleary for Congress  
P.O. Box 492  
Crossville, TN 38557

RE: MUR 4111

Dear Mr. Nicholas:

On November 7, 1994, the Federal Election Commission notified you 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 exercised its prosecutorial discretion to take no action against Van Hilleary for Congress and you, as treasurer. This case was evaluated objectively relative to other matters on the Commission's docket. In light of the information on the record, the relative significance of the case, and the amount of time that has elapsed, the Commission determined to close its file in this matter on March 5, 1996.

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 the Central Enforcement Docket at (202) 219-3400.

Sincerely,

*Mary L. Taksar (JBT)*  
Mary L. Taksar, Attorney  
Central Enforcement Docket

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FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 411

DATE FILMED 3/19/96 CAMERA NO. 2

CAMERAMAN EES

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