

JOHNNIE L. COCHRAN, JR.*
RALPH L. LOTKIN
*ALSO MEMBER OF
THE CALIFORNIA BAR

LAW OFFICES
COCHRAN & LOTKIN

CAPITOL HILL WEST BUILDING
201 MASSACHUSETTS AVENUE, N.E.
SUITE C-1
WASHINGTON, D.C. 20002
PHONE (202) 547-9229
FAX (202) 547-9230

E-mail Address: CLAW@aol.com

January 12, 1998

LOS ANGELES OFFICE
WILSHIRE HIGHLAND BUILDING
4929 WILSHIRE BOULEVARD
SUITE 1010
LOS ANGELES, CALIFORNIA 90010
PHONE (213) 931-6300
FAX (213) 931-9531

OF COUNSEL
SCHNA & BILLAS*
LOS ANGELES, CALIFORNIA
ORANGE COUNTY, CALIFORNIA
SACRAMENTO, CALIFORNIA
MEXICO CITY, MEXICO
*ADMITTED ONLY IN CALIFORNIA
AND MEXICO, D.F.

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

AOR 998-01

Re: Request for Advisory Opinion Under 2 U.S.C. 437f(a)

Dear Mr. Litchfield:

As we have discussed over the telephone, this office has been engaged to represent U.S. Representative Earl F. Hilliard of Alabama and his authorized campaign committee.

Recently, the Congressman was subjected to a series of allegations including, for example, assertions regarding improprieties in the operation of his congressional office, campaign activities, and the administration of his campaign funds. The Congressman denies any allegation of wrongdoing. The Congressman's campaign committee maintains funds which the Congressman and his committee wish to utilize to defray the expenses incurred with our law firm.

We believe these expenses are campaign-related because the bulk of specific allegations raised in the press primarily relate to the Congressman's use of his campaign fund or his performance as an elected official and because of the likelihood that the allegations will be raised as issues in the 1998 election. Indeed, because the Congressman has already been called upon for response and because it is certain that the Congressman will need to undertake further action during and in the context of the 1998 campaign, he views the expenditures as necessary to his campaign for reelection.

The Congressman is mindful of the prohibitions in the Federal Election Campaign Act of 1971 against the use of campaign funds for personal use, and the Congressman understands that, under the personal use rules, expenses for attorneys' services are among those uses that are examined on a case-by-case basis. The Congressman requests the opinion of the Federal Election Commission

("FEC") concerning the propriety of using campaign funds for the purpose of reimbursing our firm for legal expenses. As is discussed more fully below, the proposed use of campaign funds would not have arisen but for the facts that Mr. Hilliard is a Member of Congress and an active candidate for reelection to that office. Specifically, our services result directly from the need to respond to allegations of wrongful conduct contained in the recent press articles. Our research establishes that the FEC has previously noted, particularly in its Advisory Opinion 1996-24, that it "recognizes that the activities of candidates and officeholders may receive heightened scrutiny and attention because of their status as candidates and officeholders. The obvious need for a candidate to respond to allegations that result from this elevated scrutiny would not exist irrespective of the candidate's campaign or officeholder status."

Such is precisely the case in the instant situation. As has been made clear in the press accounts, the allegations regarding Representative Hilliard have been made in the context of his candidacy for reelection and it is manifest that he respond to such issues, even with respect to allegations of underlying activities that were not campaign or officeholder related. See, AO 1996-24.

In Part I of this letter, we briefly, by category, summarize the allegations made in the press. In Part II we summarize the nature of the legal services we have rendered and will continue to render to Congressman Hilliard.

I. The Specific Allegations Reported by the Press

Enclosed are the specific articles relating to and raising the subject allegations.

The Hill, December 3, 1997
The Hill, December 10, 1997

Taken together, the subject articles either suggest or allege improper conduct by Representative Hilliard or his campaign organization in connection with at least the following general issues:¹

1. The validity and amount of disbursements made by the campaign to certain businesses or charities;

¹ In the interest of brevity and because the articles are enclosed, we have not identified by name(s), date(s), or activity the specific matters embraced by each generic allegation.

2. Whether campaign funds have been used for personal purposes;
3. The validity and circumstances of certain campaign fund loans to specified individuals;
4. The matter of whether proper and complete disclosure(s) has been made in annual reports the Congressman has filed pursuant to the Ethics in Government Act;
5. Whether certain aspects of the operation of Representative Hilliard's office have been improper;
6. Whether there has been full disclosure of all campaign contributions; and
7. Whether there has been an improper commingling of campaign and official resources.

In addition, the articles include references to certain other or business transactions not as directly related to Mr. Hilliard's candidate or officeholder status as are the above-listed 7 generic categories. Indeed, several allegations relate to matters that allegedly occurred before Mr. Hilliard became a Member of Congress. Notwithstanding, it has become necessary for Representative Hilliard to respond to such other allegations because they too have been included in the articles that will be made issues in the campaign and to which Mr. Hilliard has already been forced to respond in a campaign, or official, context. See, again AO 1996-24.

II. Services Rendered By Our Law Firm

In our capacity as counsel to Congressman Hilliard and his committee, we have begun to carefully investigate the allegations discussed above, and we have undertaken efforts to advise the Congressman with regard to his dealings with the media, and, as might be necessary, law enforcement and oversight entities, and the House Committee on Standards of Official Conduct. Specifically, we have rendered or will undertake the following services to the Congressman:

1. We have reviewed and will continue to monitor the allegations made against Congressman Hilliard and reported in the media.
2. We have conferred with Congressman Hilliard with regard to the attacks made against him in the media.
3. We will independently investigate the factual allegations, interview witnesses as appropriate, confer with individuals and counsel for various individuals or governmental entities, and review documents in order to work with the Congressman to respond to the allegations.

N. Bradley Litchfield, Esq.
Page 4

4. We will conduct legal research and assist Congressman Hilliard with regard to his and the campaign organization's interactions with appropriate oversight organizations, including the FEC, and organizations in the executive or legislative branch, as the need arises.

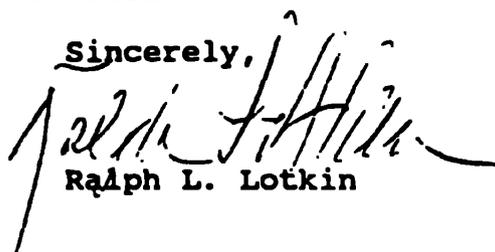
5. We reviewed the provisions of the Federal Election Campaign Act of 1971, applicable federal regulations, and the advisory opinions of the FEC with regard to the appropriateness of the Congressman's campaign committee reimbursing our firm for legal expenses incurred in this matter.

We believe that none of these matters would have arisen or legal assistance and expenses incurred but for Mr. Hilliard's status as a Member of Congress and his campaign for reelection. As stated earlier, the Congressman views the expenditures as essential to his reelection effort.

We would appreciate your indicating whether the legal expenses incurred by the Congressman relating to the above-referenced allegations may be defrayed by use of the campaign committee's campaign funds. In making this request, we are mindful of the statement made on numerous occasions by the Commission that neither the Federal Election Campaign Act nor the FEC are designed to interfere with the wide discretion given candidates relating to the use of campaign funds.

Pursuant to our recent telephone conversation, we hope the FEC will be able to respond to our request as soon as practicable. In this regard, if you have any questions, or desire any additional materials, please feel free to call me.

Sincerely,



Ralph L. Lotkin

Enclosures

Hilliard campaign boosted business

THE HILL

10/3/97

By Jack Friedly

Since 1992, Rep. Earl Hilliard (D-Ala.) has made well over \$100,000 in payments from his campaign to businesses and charities he controls, in a manner that raises questions about whether the congressman has complied with federal election laws, an investigation by The Hill has found.

First in a two-part series.

The payments to his companies included thousands of dollars in advertising on a radio station that Federal Communications Commission filings indicate was not broadcasting and insurance premiums to a company that state auditors said sold only burial policies.

Although campaigns may employ candidate-owned companies by paying market rates for goods and services, the nature of these payments suggests the campaign may have converted donations for "personal use" or payments for non-campaign purposes, which violates the Federal Election Campaign Act and implementing regulations.

Public records and interviews regarding Hilliard's ever-changing web of companies reveal out-

er questionable practices by the Birmingham lawmaker, including the following:

• Hilliard has repeatedly failed to make disclosures about his many business interests that are required under the Ethics in Government Act;

• Hilliard's campaign made more than \$30,000 in interest-free loans to family members and organizations they control, at least in small part helping to finance the purchase of a building from a for-profit company of Hilliard's at an inflated price;

• Hilliard blurred legal lines between his congressional office, his private business enterprises

for months, a paradox suggesting to Federal Election Commission (FEC) officials that the campaign may have received money from an undisclosed source.

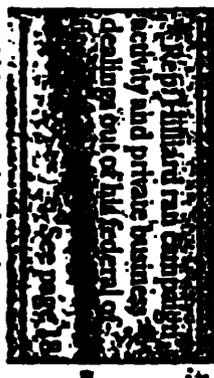
Hilliard's election to Congress in 1992 was historic. Running in a newly configured district regard-

ed as one of the poorest in America, he became the first black representative from Alabama since Reconstruction. Since then, he has aggressively fought for projects and grant money that could bring jobs to help his mostly African-American constituency.

The suspect practices involve his campaign and his modest business empire, which consists mostly of a constantly changing list of small firms falling under a tightly controlled holding company named Hilliards & Co.

"It's really confusing because it's a shell game," commented Jack Williams, the tax collector for Jefferson County who has criticized the repeated failure of Hilliard's businesses to pay taxes. At one time, federal tax liens against property owned by Hilliard companies exceeded \$145,000, according to the Associated Press.

The extent of Hilliard's interest



Earl Hilliard ran campaign activity and private business dealings out of the federal office in Birmingham. (See page 18)

His first congressional campaign in 1992 ran a negative cash balance of thousands of dollars for

to run his campaign;

■ CONTINUED ON PAGE 18

Hilliard's finances indicate possible violations of federal law

By Jack Fiedly

Rep. Earl Hilliard (D-Ala.) ran campaign activity and private business dealings out of his federal office in possible violation of House ethics rules and federal law, according to documents and interviews.

Evidence that the congressional office was used to support the campaign and his companies includes:

- Hilliard's Montgomery federal office also served as campaign headquarters there, neighbors say.

- The manager of Hilliard's Birmingham congressional district office, Elnora Willoughby Williams, is listed in documents as wearing three hats, serving as full-time congressional district manager, as the assistant treasurer who files disclosures for the campaign, and as treasurer for his private businesses.

- In 1995, a Hilliard-controlled business, American Trust Corp., submitted an ownership report with the Federal Communications Commission (FCC) listing the official phone number of the company as Hilliard's federal office in Birmingham.

- A private contractor for Hilliard's radio station said he was told to conduct station business with Hilliard's congressional office, through Williams, the congressman and other aides.

- In one of the few faces in the public record on April 16, 1996, the Hilliard for Congress campaign used a cover page from the federal office to file a document with the Federal Election Commission (FEC):

- Rent for Hilliard's federal office in Birmingham was increased more than 25 percent at the beginning of this year after his campaign, which now pays no rent, moved into the same building in late 1996.
- "Official revenues should be used for official purposes only," said the House ethics committee general counsel, Ted van der Meid, speaking in general terms. "To the extent that someone is using public office for private gain, that's all prohibited."

In 1995 and 1996, Hilliard's congressional office in Montgomery was used for campaigning, according to several people. But the \$1,900 a month rent was paid entirely by the federal government.

A source at the bank owning the property, who spoke on condition of anonymity, said Hilliard used the building for his campaign and closed the office after the election. Neighbors say the property served the campaign, as well as official functions.

"It was campaign headquarters," described neighbor Braxton Causey, who still retains the official congressional business card that he received last year from Robert Lane, Hilliard's full-time manager of the Montgomery office. "There was a sign up" on the building identifying it as a

Possible taxpayer subsidies of Hilliard's campaign.

campaign operation.

Causey's son-in-law, Lewin McDaniel, also recalls a sign hanging there. "It was an open functioning headquarters for a political campaign," he said. "That was obvious to see it was a campaign headquarters."

While neighbor John Wimpsey said he never could figure out what the purpose of the building was, another neighbor, Cheryl Powell, recalls that a political campaign seemed to be in full swing. "I remember seeing some banners or stickers," she said.

Further evidence comes from a campaign div issue. Eighty Redman, who is listed in campaign records as having contributed payroll for the campaign in May 1996, was listed in the disclosure for that period as being located at the Norman Bridge site, even though he was a campaign, not congressional, worker. Redman could not be heard for comment.

"While it is possible for congressional

staff to hold positions in the campaign and, to the extent allowable under House rules, to have outside employment, great care must always be taken to ensure that those individuals are not using phones, buildings or government funds for private commercial or campaign activity," commented Trevor Potter, a former chairman of the FEC who specializes in election law and government ethics. "Certainly the use of a congressional office as a campaign headquarters would raise serious issues under the House ethics rules."

In Birmingham, similar issues of possible taxpayer subsidies to Hilliard's campaign arise.

FEC filings list District Manager Williams as being the assistant treasurer of Hilliard's campaign committee and show that several times she was reimbursed for incurring campaign expenses. She was also listed in corporate records as treasurer and a director. Pay records indicate that Williams never received a reduction in congressional pay for pursuing unclassified work.

But according to one former Hilliard staffer, who asked for anonymity, Williams sometimes would work in the congressional office in the morning and be gone the entire afternoon at the building around the corner that served as campaign and corporate headquarters.

Late last year, the campaign and Hilliard's companies were forced to move from their building on Third Avenue to an office building around the corner that housed his federal office. Hilliard's company lost title to the Third Avenue building through failure to make mortgage payments—all the while his company was still charging rent to his campaign.

At about the same time as the move, the rent on his congressional office increased more than 25 percent, from \$1,190 to \$1,420 a month. Meanwhile, his campaign has paid nothing in rent in its new location. Henry Penick, the building's owner, an attorney who formerly represented Hilliard and who now shares the second floor with Hilliard, denied any connection

between the rent increase and the move of Hilliard's business and campaign. He said he could not explain who pays the campaign's rent.

There is evidence to suggest that Hilliard also did not draw a sharp line between his federal office and his private business interests.

Tom Jones said he was hired on a contract basis as the main engineer for WJDR radio, which is owned by Hilliard's American Trust Communications Corp. "I dealt with Earl Hilliard himself," he said, explaining that the lawmaker gave him his congressional office numbers and home number to contact him on radio station matters.

Jones described how Hilliard's congressional staff, including District Manager Williams, also helped deal with business matters, including billing. "They were the same people doing it," he said.

The involvement by Williams on behalf of Hilliard's business was not inidental to her duties as a federal employee, according to documents and several accounts. In fact, when state examiners audited Hilliard's American Trust Life Insurance Co., they found Williams listed in corporate papers as the treasurer, as well as a director. She appears to have served in a similar role with Hilliard's other companies. Her signature appears on other corporate documents reviewed for this story that were dated after she went to work for the congressional office.

Though Hilliard's office had no comment, former aides denied that the line between Hilliard's congressional office and his business blurred. Asked about connections between the two, former Assistant Office Manager Don Hull said he knew of "name whatever." Another former aide, Jacqueline Smith, concurred. "I was very clear on what my duties were," she said, although she added that Williams was "very confidential in everything she did" and could not say what she did.

Williams, reached by telephone, declined comment.

For More Information: Call Matt Trantham (301) 350-3400 ext. 2565

Gate Price: \$40, \$30

Tues. 14 NY Rangers 7:00
Sun. 19 Carolina 1:30

Thurs. 15 Chicago 7:00
Sun. 25 Boston 2:00

Gate Price: \$40, \$32

Mon. 2 Detroit 7:00
Wed. 4 Cleveland 7:00

18

The Hill ■ Wednesday, December 3, 1997

Hilliard's disclosures incomplete

■ CONTINUED FROM PAGE 1
in the holding company and its subsidiaries, many of which include the name "American First," is difficult to determine from his financial disclosures. His forms covering the 1993 and 1994 years list corporate assets, transactions, outside income or directorships of any private company.

These sworn declarations contrast with a report by Alabama insurance regulators in 1995 that stated that the lawmaker owned a controlling interest in the holding company at least in 1994.

The declarations also contrast with a Dec. 15, 1994, letter filed with the Federal Communications Commission (FCC) by his nephew, state Rep. John Hilliard (D), who runs the day-to-day operations of Hilliards & Co. An attachment to the letter depicts the congressman as the president and "ultimately controlling person" of Hilliards & Co. with a 30 percent personal stake and a 73 percent interest attributable to himself, his wife and his two children. The same distribution of shares appears in an ownership report that Earl Hilliard filed with the FCC in 1986.

Not until his disclosure for 1995, filed in

the spring of 1996, did Hilliard finally acknowledge a stake in Hilliards & Co. worth more than \$100,000. He also said he was director, not president, of the holding company and three subsidiaries. On the disclosure form he failed to mention any shares held by his wife, Mary, even though disclosure of a spouse's interests is required by the Ethics in Government Act. The next year, he again did not list a financial stake in, or a hobby from, Hilliards & Co. or any of its subsidiaries.

In addition, on none of his disclosure forms has he listed any interest in the Birmingham Greater Golf Association. This association was hired by the city in 1987 to run the Highland golf course. According to William Pate, an assistant city attorney for Birmingham, as well as Cissy Yearout, who serves as attorney for the ownership group, Hilliard has a major personal stake in the association, along with five other investors.

To the community, the association was a failure. The golf course now has unused, its greens turned brown and its vegetation unmanageable. The congressman joined his co-investors a few weeks ago in filing a law-

suit claiming that the city caused the failure of the course by placing restrictions on how much the company could charge golfers.

But city officials are now planning to seek legal recourse from Hilliard and his colleagues for allegedly defrauding on a \$200,000 loan from the city. "We are going to counter-sue. That the \$279,000 that we believe they owe," Pate said in an interview two weeks ago.

The possibility of a public court fight led Hilliard to recently phone the city to offer money if it would drop its claim against him. "He offered to pay one-sixth of the debt if we released him on that," Pate said, noting that the city has no plans to release him.

Many of the legal questions raised by The Hill investigation revolve around Hilliard's campaign.

Hilliard swept to victory in 1992 in his heavily Democratic district after a housing primary that resulted in a runoff. In that election year, and the years that followed, he appears to have made little distinction between his companies and his campaign.

From 1992 to 1996, the campaign headquarters was located on Third Avenue in Birmingham in a two-story brick and stone



Rep. Earl Hilliard (D-Ala.)
FAT PHOTO BY PHIL

office building, owned by a company controlled by Hilliard. The same space also housed several of his businesses.

The campaign and these businesses even shared the same phone and fax numbers, as well as the same post office box — all paid for by the campaign, according to the campaign.

■ CONTINUED ON PAGE 19

Legal questions raised by office-sharing

■ CONTINUED FROM PAGE 1

campaign's FEC filings. When the campaign sent out taxes, Hilliard's American Trust company name usually appeared on top.

Experts say the office-sharing arrangement raises legal questions under federal tax law.

"That would be a very serious concern," said Jack Reilly, an official with the tax-exempt organizations division of the Internal Revenue Service. "It's saying the political organization doesn't exist" because the campaign ceases to be a legally separate entity from the company.

The office-sharing also presents problems under the election law.

Campaign laws prohibiting conversion of campaign funds for "personal use" — defined by law as the campaign paying costs that would exist "irrespective of the candidate's campaign or duties as a federal officer holder" — may also have been violated by the sharing of resources. "Personal use" is anything that personally benefits the candidate," said former FEC Commissioner Trevor Potter, a leading election law expert, now in private law practice. Personal use, he said, would include excessive payments to corporations controlled by the candidate.

To avoid trouble, Potter said, a "paper trail" would be needed to show why rent and other costs were set at the level they were. "You'd simply have to be able to show you had some good-faith measurement," he said.

Conversely, noted attorney Jan Baran, a Republican specializing in election law, the campaign also would need to properly

reimburse the corporation for funds or in-kind resources spent on campaign purposes. "That gets into whether corporate resources were being used improperly to finance a congressional campaign," he said. "He's got to be careful at both ends."

Hilliard's practices raise questions of compliance with both these prohibitions.

On the one hand, records filed by the Hilliard for Congress committee indicate the campaign never reimbursed the companies for the use of desks, phones, the fax machine and other accommodations that were already located in the facility that became the campaign headquarters.

On the other hand, according to the election filings, his campaign paid more than \$8,200 in utility bills for the building directly to the utility companies, even though it was not the sole occupant. No utility reimbursements to the campaign were provided by the other tenants, which were all Hilliard's private businesses. Real estate agents in Birmingham say the arrangement was extraordinary because tenants normally are responsible for utilities only when they occupy the entire building.

At the end of 1994, the campaign's utility payments stopped for a reason that is not clear.

The campaign picked up other miscellaneous costs of the building, such as \$702.04 to fix the air conditioning unit, even though no record exists that such a unit was purchased by the campaign. In the next election cycle, the campaign paid to repair bad plumbing and a broken water heater. The campaign also bought a plane ticket for Hilliard to attend a confer-

Ownership in Hilliards & Co. as of December 1994:

NAME	RELATIONSHIP	PERCENT
Rep. Earl F. Hilliard		30.48%
Mary F. Hilliard	wife of Earl	14.47%
Iola Hilliard	mother of Earl	.95%
Alesia L. Hilliard	daughter of Earl and Mary	13.52%
Earl F. Hilliard Jr.	son of Earl and Mary	13.52%
Randall M. Hilliard	nephew of Earl	13.52%
Frederick E. M. Hilliard	nephew of Earl	13.52%

ence of the Minnesota Radio Association, which may have been related to his ownership of an AM radio station. The association could not be located for comment.

The campaign appears to have subsidized Hilliard's company operations in other ways as well. Direct payments to companies and charities under the control of the congressman's family or listing their addresses at his past office box totaled \$102,000. Another \$63,000 went to pay Hilliard's relatives in salaries and consultant fees. Tens of thousands more, sometimes paid in installments, went to the nearest \$100, went to Hilliard family members to defray expenses. An additional \$40,000 was given to family members or charities they controlled in interest-free loans.

In 1992, the campaign began to pay rent

to whatever Hilliard company or charity held title to the Third Avenue building at that particular time. Rent payments grew from \$400 a month in 1992 to \$1,000 to \$1,500 and finally, in 1996, to \$2,000, with no reduction made during non-election years. The more than tripling in rent came despite the fact that Hilliard's only serious contested campaign came in the 1992 primary, and according to the campaign's FEC filings, the number of salaried campaign employees had dropped to zero in the second half of 1990.

How much office space the campaign occupied is unclear. Candidates are not required to disclose such figures. Alabama insurance examiner Clegg Taylor spent weeks in the building auditing the books at

■ CONTINUED ON PAGE 20

Rep. hint | More women eye governorships

20 The Hill ■ Wednesday, December 3, 1997

Hilliard paid own burial insurance company

■ CONTINUED FROM PAGE 1
a time when records show the campaign was paying rent. But Taylor was not aware that the office building — much of it empty — also served as a campaign office. "To my knowledge it was just the insurance company," he said.

Hilliard's insurance company, American Trust Life, itself received unusual \$181 payments from the campaign. Despite its name, its sole business, according to a 1995 state examiner's report written by Taylor, was burial insurance. Clients, mostly poor Birmingham residents, typically paid pennies a day for policies that returned anywhere from \$500 to \$2,500 to cover their funeral costs.

It is not clear from campaign disclosures who or what the insurance policy covered. The monthly premium did not change regardless of how many employees the campaign had. "One hundred eighty-one dollars would have been high for what [American Trust's] premiums were," Taylor said.

Like several of his previous business ventures, Hilliard's insurance company was a flop. Finding that the company had overstated its provable assets by a factor of 30, the state finally seized the troubled life insurance business in August 1996. The state continued to operate the company, collecting the monthly bills and paying claims.

The campaign did not continue its \$181 monthly policy after Hilliard began to lose control of American Trust Life. Campaign records indicate that its last premium pay-

ment occurred in April 1996, the month that the state made the first step in taking over. The company is now being liquidated, and the policies transferred to other providers.

In at least some instances, the timing of campaign payments suggests that the payments were intended to help the businesses. In October 1994, for example, with the campaign nearly broke, the campaign prepaid \$1,500 in rent. One year, it also prepaid its insurance premiums.

Another questionable campaign expenditure is the \$1,500-a-month retainer paid beginning this year to the American Trust Advertising Agency. The address listed is the same as the studio for WJQR, a Montgomery radio station Hilliard owns.

The payments have occurred even though it was a non-election year, the audience of the station was limited, the listener area contains relatively few congressional district residents, and no other radio stations received money during that period.

Other radio advertising by the campaign also raises questions. In April and May of 1996, with Hilliard facing no primary opponent, the campaign paid \$4,800 to a Hilliard firm for what it described as "radio air-time advertisement" on WJQR. At that time, however, the radio station was off the air, according to a former employee and a June 1996 FCC filing on the station's behalf. WJQR did not receive approval from the FCC to return to the air until December 1996.

Some of Hilliard's businesses were intertwined with charities, which shared the

same post office box as the campaign and were funded by family members.

According to state auditors, payments flowed back and forth between American Trust Life and the African American Institute. And in 1993, the African American Institute paid a Hilliard company \$385,000 for a Third Avenue property housing Hilliard's campaign and companies. Two years later, the institute sold the building to American Trust Life for \$1 "and other goods and valuable consideration."

Rent that the campaign paid on the property jumped from \$1,000 to \$1,500 immediately after the charity's original purchase of the property — at more than twice what the county lists as its present market value of \$185,000. The campaign also donated \$300 to the institute that year and gave it a \$350 interest-free loan. According to a 1995 article in the Birmingham Post-Herald, most of the charity's income went to pay mortgage debt.

The campaign made other interest-free loans totaling more than \$30,000. Of that sum, \$13,000 went to Rita Hilliard Hall, the congressman's niece who is the campaign's treasurer and his business's office manager, and \$11,300 went to the reelection campaign of his nephew, state Rep. Hilliard. Another \$5,750 went to a family-controlled charity called the Alabama Film and Entertainment Council.

Thus far, the FEC's only official action against the campaign was a \$5,500 fine for late filing of forms. The agency also raised

questions about the campaign's 1992 assertions regarding how much cash it had on hand.

In that year, the Hilliard for Congress campaign registered minus-\$8,705 cash on hand on June 30, 1992, minus \$1,379 by the end of September, and minus \$7,537 two weeks later. The first of the filings caught the notice of an FEC analyst, who wrote that "this suggests that you have overdrawn your account, made a mathematical error, or incurred a debt" and that, "if the negative ending cash balance is a result of an overdraft, it may constitute a prohibited bank contribution."

The campaign responded that this was an accounting anomaly caused by "checks that were written but, [sic] have not cleared the bank."

The FEC accepted this explanation. Yet, according to an analysis by The Hill based on campaign filings, Hilliard ran a negative cash balance for months at a stretch that year.

"At best, it shows that they were living hand-to-mouth and that they were constantly anticipating donations to cover checks they had written over a protracted period of time," said Baran, the election law expert. "The worst can only be speculated as to whether it is possible to juggle a campaign check book so finely over so long a period of time."

Laura Dunphy and Sandra Basi provided research assistance for this story.

Next week: Whether tax dollars helped support Rep. Hilliard's ailing business

THE HILL

12/3/97

Rep. Hilliard responds

After repeated attempts to seek comment from Rep. Hilliard, The Hill sent a two page letter summarizing this article. Hilliard responded with the following fax.

I am writing in response to your letter of Dec. 1, 1997, regarding an upcoming article you plan to write in The Hill newspaper on Wednesday, Dec. 3, 1997, alleging unethical and illegal conduct on my part. You have not provided me with a copy of the article; therefore, I am unable to respond to any allegations you make.

Based on telephone calls received by members of my staff, you have contacted virtually every employee that I have dismissed or who has resigned from my staff. However, it appears that you have exaggerated and distorted facts and have added lies and untruths to arrive at unsupported conclusions regarding unethical or illegal conduct. This appears to have been done with reckless disregard for the truth or veracity of the allegations.

I have been under attack ever

since I entered politics because I have supported the interests of the underserved. In spite of your threatened attack on my character, I will continue to work vigorously on behalf of children, the poor, the elderly, the disenfranchised, the voiceless, African countries, countries with majority black populations, and African-Americans. These allegations will not silence me.

Sincerely,
Earl F. Hilliard
Member of Congress

12/10/97

Hilliard station benefited from taxpayer funds

By Jock Friedly

A foundation affiliated with Rep. Earl Hilliard (D-Ala) ran a radio station that State of Alabama auditors found benefited from a state college's expenditure of \$472,000 in tax funds, in a manner violating the law.

Second of a two-part series

Hilliard's office later began paying a firm associated with the college's president — who was fired for his role in these and other expenditures — \$1,000 a

month in tax funds to rent office space, many times what real estate experts say the tiny space is worth.

Hilliard and various aides have declined repeated requests for their comments. The Hill has found no information that suggests that Hilliard was aware that the college's use of tax funds violated the law. Nevertheless, the episodes shed new light on the controversial business practices that Hilliard has used over the years, as well as his stewardship over his federal office.

The state audit that mentions

■ CONTINUED ON PAGE 32

12/10/97

Hilliard responds to allegations

The office of Rep. Earl Hilliard (D-Ala.) responded Thursday to two of the portrayals of his financial practices in last week's issue of The Hill, but the explanations contradict the congressman's own campaign filings and another official document.

The response came from Hilliard's press secretary, Kenneth Mullinax, in statements to the Associated Press. According to an AP story, Mullinax stated that The Hill was incorrect in asserting that Hilliard spent thousands of dollars in campaign funds on insurance premiums to a company of his that sold only burial insurance and for advertising for his radio station when it was not operating.

The AP reported that Mullinax said the \$181 premium payments were for life insurance — not burial insurance — for a campaign employee who insisted upon having the benefit.

The payments to the American Trust Insurance Co., began in the fall of 1994. However, an audit by Alabama insurance regulators indicated that the only new policies written during 1994 by the company paid out at most \$2,500, which are known in the business as burial policies

because of their limited pay-out.

Elizabeth Redmond, who could not be reached for comment, was apparently the holder of the insurance policy. She was the only salaried employee who worked for the campaign during the time in question.

The second Mullinax statement related to \$4,800 in radio advertising payments in 1996 that went to a Hilliard firm, American Marketing and Media. As reported last week in The Hill, the payments occurred when WIQR, the radio station owned by the Hilliard family, was off the air, according to a WIQR employee and the station's own filings with the Federal Communications Commission.

Mullinax explained that the payments to American Marketing and Media were intended for another radio station, not WIQR. However, the campaign's own filings list the purpose of the \$4,800 payments as being for Radio Airtime Advertisement WIQR.

Mullinax did not return The Hill's phone calls seeking documentary evidence for the statements attributed to him by the AP.

— JOCK FRIEDLY