



FEDERAL ELECTION COMMISSION

1325 K STREET NW
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 298

Date Filmed 6/29/79 Camera No. --- 2

Cameraman bpc

FEDERAL ELECTION COMMISSION

None

The above-described material was removed from this file pursuant to the following exemption provided in the Freedom of Information Act, 5 U.S.C. Section 552(b):

- | | |
|--|---|
| ☐ (1) Classified Information | ☐ (6) Personal privacy |
| ☐ (2) Internal rules and practices | ☐ (7) Investigatory files |
| ☐ (3) Exempted by other statute | ☐ (8) Banking Information |
| ☐ (4) Trade secrets and commercial or financial information | ☐ (9) Well Information (geographic or geophysical) |
| ☐ (5) Internal Documents | |

Signed

date

[Signature]
6/18/77

FEC 9-21-77

79040135370

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
)
Vernon W. Thomson and)
Victoria Ann Tigwell)

MUR 298(76)

CERTIFICATION

I, Marjorie W. Emmons, Secretary to the Federal Election Commission, do hereby certify that on May 26, 1977, the Commission determined by a vote of 4-0 to close the file in the above-captioned matter, to release the letter from the Department of Justice commenting on this case immediately, and to make Commissioner Thomson's statement on this matter a part of the record, available to the public in accordance with the Freedom of Information Act.

Voting for this determination were Commissioners Aikens, Harris, Springer, and Staebler; Commissioner Thomson abstained from voting; Commissioner Tiernan was not present at the time of the vote.

Marjorie W. Emmons

Marjorie W. Emmons
Secretary to the Commission

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135371

BAKER, HOSTETLER, FROST & TOWERS

SOUTHERN BUILDING

WASHINGTON, D. C. 20005

FEDERAL ELECTION
COMMISSION

77 FEB 9 AM 10:02

William Oldecker, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

7701013537

FEDERAL ELECTION COMMISSION
100310



400 531
NRN

BAKER, HOSTETLER, FROST & TOWERS

COUNSELLORS AT LAW
SOUTHERN BUILDING
WASHINGTON, D. C. 20005
(202) 393-8360

IN CLEVELAND, OHIO
BAKER, HOSTETLER & PATTERSON
1956 UNION COMMERCE BUILDING
CLEVELAND, OHIO 44115
(216) 821-0200
TWX 810 421 8378

May 23, 1977

William Oldecker, Esquire
General Counsel
Federal Election Commission
1325 K Street, N. W.
Washington, D. C. 20005

Re: Federal Election Commission vs. Victoria Tigwell

Dear Mr. Oldecker:

Please be advised that beginning May 31, 1977, our new office address and telephone number will be as follows:

818 Connecticut Avenue, N. W.
Washington, D. C. 20006
(202) 857-1523

Very truly yours,

John Lodge Euler
John Lodge Euler

William H. Schweitzer
William H. Schweitzer

cc: Miss Victoria Tigwell

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

7 9 0 4 0 1 3 5 3 7 3

February 9, 1977

John Lodge Euler, Esq.
Baker, Hostetler, Frost & Towers
Southern Building
Washington, D.C. 20005

Dear Mr. Euler:

Enclosed are copies of the depositions your
requested in your letter of February 3, 1977. I
hope these are of assistance to you.

Sincerely yours,

W

William C. Oldaker
General Counsel

Enclosures

Depositions of
Suzanne Callahan
Robert Perkins
Beth Perkins
Daniel Reese
William Loughrey (2)

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135374

BAKER, HOSTETLER, FROST & TOWERS
COUNSELLORS AT LAW
SOUTHERN BUILDING
WASHINGTON, D. C. 20005
(202) 393-5360

77 FEB 8 AM 10:16

IN CLEVELAND, OHIO
BAKER, HOSTETLER & PATTERSON
1956 UNION COMMERCE BUILDING
CLEVELAND, OHIO 44115
(216) 621-0200
TWX 810 421 6378

February 3, 1977

William Oldecker, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

770437

Re: Miss Victoria Tigwell

Dear Bill:

We have information that depositions taken by your predecessor, Mr. Murphy, concerning the above investigation have been disseminated to interested parties and agencies. This is to request that our client, through counsel, be provided with copies of the depositions or sworn statements of the following persons:

Suzanne Callahan
Robert Perkins
Beth Perkins
Daniel Reese
William Loughrey

Thank you for your cooperation.

Very truly yours,

John Lodge Euler
John Lodge Euler

JLE:td

cc: Miss Victoria Tigwell

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
BUREAU OF GENERAL COUNSEL

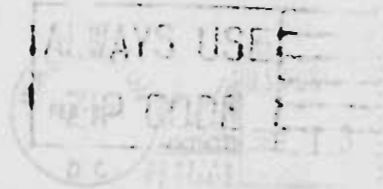
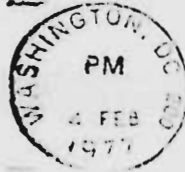
BAKER, HOSTETLER, FROST & TOWERS

SOUTHERN BUILDING

WASHINGTON, D. C. 20005

FEDERAL ELECTION COMMISSION

77 FEB 8 AM 10:01



William Oldecker, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

20463

790101062
FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

BAKER, HOSTETLER, FROST & TOWERS

COUNSELLORS AT LAW
SOUTHERN BUILDING
WASHINGTON, D. C. 20005

(202) 393-5360

RECEIVED
FEDERAL ELECTION
COMMISSION

'77 FEB

IN CLEVELAND, OHIO

BAKER, HOSTETLER & PATTERSON
1225 UNION COMMERCE BUILDING
CLEVELAND, OHIO 44115
(216) 621-0200
TWX 810 421 8375

February 8, 1977

William Oldecker, Esquire
General Counsel
Federal Election Commission
1325 K Street, N.W.
Washington, D.C. 20005

Re: Miss Victoria Tigwell

Dear Mr. Oldecker:

Confirming our conversations of February 8, 1977, we request that you forward to Miss Tigwell, through our office, copies of such depositions or sworn statements as were taken in the course of the subject investigation.

Very truly yours,

John Lodge Euler
John Lodge Euler

JLE:td

cc: Miss Victoria Tigwell

FEDERAL ELECTION COMMISSION
OPTIONAL FILE COPY
OFFICE OF GENERAL COUNSEL

MAY 20 1977

Edlaker

25 MAY 1977

Department of Justice

Washington 20530

Mr. Thomas E. Harris
Vice Chairman
Federal Election Commission
1325 K Street, N.W.
Washington, D. C. 20463

MAY 20 1977

Re: Vernon W. Thomson and Victoria Ann Tigwell;
MUR-298(76).

Dear Commissioner Harris:

On January 4, 1977, the Commission referred to this Division for appropriate consideration and attention materials with respect to potential violations by Vernon W. Thomson and Victoria Ann Tigwell of 2 U.S.C. §437g(a)(3)(B) which prohibits the release of information developed during a compliance investigation undertaken by the Commission under the Federal Election Campaign Act.

We have now completed our review of those materials. We have also reviewed numerous depositions that were developed by the Commission during its investigation, as well as a written presentation that was submitted to us on behalf of Mr. Thomson by his attorneys.

On the basis of our review, and for the reasons set forth below, we do not feel that Federal prosecution of either Thomson or Ms. Tigwell is warranted, and we accordingly plan no further action in this matter.

At the outset, we note that in referring this matter to us, the Commission did not follow the procedure set forth in 2 U.S.C. §437g(a)(5)(D) for the Commission's referral of a matter to this Department for possible prosecution. Under that procedure the Commission is required to state conclusively that it has found "probable cause to believe" that the subject has violated the Act.

Since this matter involved your own Chairman, you may have concluded that it would be preferable to obtain an impartial analysis of the product of the investigation. We are concerned, however, that even in these circumstances a departure from the prescribed procedures may invalidate a prosecution.

79040135378



Moreover, we have some question as to whether Congress contemplated that the Commission would refer matters such as this one to this Department. Section 437g(a)(5)(D) requires a finding that a matter referred to this Department entails a knowing and wilful violation of the investigative confidentiality rule at issue here. We also question whether the "fines" imposed by 2 U.S.C. §437g(c) for this type of violation were intended by Congress to be criminal in nature, and thus subject to referral to the Criminal Division.

Nevertheless, we fully appreciate the difficult position in which the Commission finds itself in this matter. For that reason, we feel it is appropriate for us to offer you our views on the potential that this matter may have for penal action under the Federal Election Campaign Act.

7 9 0 1 0 1 3 5 3 7 9

With respect to Mr. Thomson, whatever he may have told Melvin Laird at the reception on October 19, 1976, would not, in our view, constitute a disclosure of information prohibited by 2 U.S.C. §437g(a)(3)(B). As under the Privacy Act (5 U.S.C. §552a), we interpret this section to require, at the very least, that the disclosure in question be such that the identity of the subject of a compliance action undertaken by the Commission and the nature of the charges being investigated by the Commission are apparent from the words spoken. Viewing the evidence here in the light most unfavorable to Mr. Thomson, he allegedly told Mr. Laird that the Commission was "investigating the records" concerning unspecified matters involving bank loans in three states, one of which was Tennessee. We do not believe that the disclosure in question here meets that standard. Moreover, we are concerned that the evidence may not be sufficient to permit us to meet our burden of proof beyond a reasonable doubt. Finally, there is no indication that Mr. Thomson acted "wilfully" in saying whatever he said to Mr. Laird. Although "wilfulness" is not an element of the offense under 2 U.S.C. §§437g(a)(3)(B) and 437g(c), its absence is an appropriate factor in the exercise of our prosecutive discretion. Curiously, violations of the confidentiality rule are the only substantive offenses in the Federal Election Campaign Act which do not require aggravated conduct as an essential element of a criminal prosecution, a factor which only adds to our suspicion that the penalty

specified in Section 437g(c) was not intended by Congress to be a Federal crime. In any event, as with the criminal sanction of the Privacy Act (5 U.S.C. 552a(i)), we would not be inclined to invoke criminal process to redress the sort of generalized cocktail party banter in which Mr. Thomson appears to have engaged.

With respect to Ms. Tigwell, there is little question that her disclosure was intentional, that it was personalized to an adequate extent to constitute a violation of 2 U.S.C. §437g(a)(3)(B) and 437g(c), and that the nature of her disclosure is capable of adequate corroboration to, in theory at least, support a criminal prosecution. However, in view of her modest position at the Commission and the fact that according to your referral she has been dismissed from her employment at the Commission for "cause," we believe that criminal prosecution for her would be inappropriate. In situations such as this, it is our view that the discharge of an offending employee is an adequate sanction to serve the interests of law enforcement.

We trust that the information provided in this letter will enable you to dispose of this matter pursuant to your powers under 2 U.S.C. 437g.

Very truly yours,

By Benjamin R. Civiletti

Benjamin R. Civiletti
Assistant Attorney General
Criminal Division

79040135380



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

MUR - 298

January 4, 1977
2:00 P. M.

COMMISSION ACTION

It was moved by Vice Chairman Harris that:

79040135381
The Federal Election Commission refer the General Counsel's report in the matter of MUR 298 (76) to the Attorney General of the United States, that the report be transmitted without recommendation, and that a copy of the report and the letter of transmittal to the Attorney General be sent to the President of the United States; Senator Howard Cannon, Chairman of the Senate Rules Committee; and the Honorable Frank Thompson, Chairman of the House Committee on Administration; and that each of the aforementioned be contacted immediately by telephone informing them that the report is being transmitted and that they are asked to withhold judgment on the matter until they have had an opportunity to receive the report, and that Vernon W. Thomson, Chairman of the Federal Election Commission, be personally informed of the above action at the same time the other parties are contacted.

The vote on the motion carried unanimously. (5-0).

Margaret W. Emmons
Secretary to the Commission



FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

FEDERAL ELECTION COMMISSION
GENERAL COUNSEL'S REPORT

In Re An Unknown Respondent
MUR 298(76)

I. Preface

7 9 9 4 0 1 3 5 3 8 2

MUR 298(76) was opened by the Commission on Wednesday, October 27, 1976 with a finding of reason to believe that an unnamed respondent had violated the confidentiality provisions of 2 U.S.C. §437g in connection with the Commission's investigation of MUR 216(76), which involved the Democratic Senatorial Campaign in Tennessee. Evidence supporting the finding of reason to believe had been supplied by an article appearing in the October 25, 1976 edition of The Nashville Banner, in which it was reported that the Commission had subpoenaed records of the Democratic senatorial candidate in that state. Because of the importance and sensitivity of the apparent breach of confidentiality reflected by that article, and because the article had wholly arbitrarily and improperly injected the Commission into a close senatorial race, the General Counsel personally conducted the ensuing investigation with the assistance of the Commission's Chief Investigator, Mr. Michael Hershman. During the course of investigation 65 depositions were taken, 14 other interviews conducted, and six subpoenas were served, five for records and one for personal appearance. The results of that investigation to date are set forth below.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

II. Facts

On August 3, 1976, a formal complaint was filed against Democratic senatorial primary candidate James Sasser of Tennessee by a Democratic opponent, Harry Sadler, who alleged, inter alia, that Mr. Sasser had received illegal bank loans and was also benefiting from improper arrangements for the use of corporate aircraft. The Commission notified Mr. Sasser of the complaint in due course. Ensuing communications between the Sasser campaign and the Commission failed to produce information adequate to resolve the allegations in the Sadler complaint. By mid-October 1976, the Commission staff felt that the Commission should tolerate no further delay in the production of requested data and should therefore issue subpoenas.

On October 19, 1976, the Commission, acting in Executive Session, voted unanimously (with Commissioner Staebler absent) to issue three subpoenas in connection with the Sadler complaint, which at that time was styled MUR 216(76).^{1/} One subpoena was for certain records maintained by the Sasser campaign treasurer, Mr. Gary Blackburn. The other two subpoenas were addressed respectively to the United American Bank of Nashville Tennessee, and the First National Bank of Tracy City, Tennessee, which allegedly made illegal loans to the Sasser campaign. The subpoenaed parties were directed to

1/ - A similar complaint styled MUR 239(76), and involving the same issues, was filed by a C.D. Hopkins on September 23, 1976, and was consolidated with MUR 216(76).

produce the described information by October 6 and 27, 1976. The Commission adjourned at approximately 1:00 p.m. on October 19, 1976.

At approximately 5:30 p.m., October 19, 1976, Federal Election Commission Chairman Vernon W. Thomson attended a reception at the University Club for Mr. Robert Spitzer, a long-time Wisconsin acquaintance. He states that he remained at the reception for a relatively brief time, since he had a dinner to attend. At one point he was approached by Mr. Melvin Laird. Both Mr. Thomson and Mr. Laird have testified that Mr. Laird addressed Thomson very aggressively from the outset, and that the subject matter of their discussion was whether the Commission was acting with adequate expedition in compliance matters. Mr. Thomson vigorously defended the Commission against Laird's challenge that the Commission was not acting effectively. Both men stated, prior to deposition, that Thomson may have "over reacted" to Laird's attack. Laird specifically referred to Commission postponement of action on complaints regarding illegal bank loans to candidates and, in this context, he testified to the best of his recollection that the states of Tennessee, Minnesota and Maryland were mentioned.^{1/} Laird testified that Thomson used the terminology "investigation of the records" in connection with "these complaints."^{2/} Mr. Thomson does not agree that this terminology was used.^{3/}

^{1/} Laird Tr. p.9.

^{2/} Laird Tr. pp 15-16.

^{3/} Both the Laird and Thomson transcripts of depositions are attached hereto and should be read in toto.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79010135384

7 9 0 4 0 1 3 5 3 8 5
Melvin Laird testifies emphatically that Thomson was the only person with whom he spoke about the Tennessee matter until the following Friday, October 22, 1976, and that he had no other source for the information regarding Tennessee.^{1/} He states that his conversation at the University Club with Thomson lasted approximately five to ten minutes. He testified that since late Spring he has had an interest in a possible article about various campaign law abuses, including loan abuses. And he had earlier stated that he was aware from general discussion on Capitol Hill that Mr. Sasser's Democratic opponent in the primary had complained that Mr. Sasser has been the beneficiary of an improper campaign loan.

After Mr. Laird left the University Club at approximately 6:30 p.m. on October 19, 1976, he went home. On Wednesday, October 20 he testifies that he was in his office all day. On Thursday, October 21, his schedule was as follows:

He attended the inauguration of the new American University President in the morning, then went to a George Washington University Board of Trustees luncheon about noon, after which the Board met. He went from the Board meeting to the Airport. At 3:30 p.m. he took Northwest Airlines flight 375 to Milwaukee. He flew on to Green Bay, Wisconsin that same evening, and stayed at a motel in Appleton. The purpose of his trip to Wisconsin was largely political; he made several appearances on behalf of the Ford Committee through the course of the weekend, and also appeared with a local Republican candidate.

^{1/} Laird Tr. pp 20, 28, 43.

7 9 0 1 0 1 3 5 3 8 6

He states that while in Wisconsin, he heard allegations that improper campaign loans were involved in Republican candidate Harold Froehlich's campaign,^{1/} and that this, as well as perhaps just preparing for political appearances,^{2/} recalled for him his conversation with Thomson. On Friday morning, October 22, he telephoned his secretary, Laurie Hawley in Washington, D.C. to arrange, among other things, for some upcoming appointments in New York. He said to her, in what he characterizes as an afterthought, that he had a "rumor" which "might be of interest to our friends in Tennessee" and that she should attempt to get the information to Carl Wallace who might know someone in the Brock campaign. He told her that his information was to the effect that the Commission had taken or was about to take action to obtain records from the Sasser campaign. He stated that he does not recall using the word "subpoenas".^{3/} He does not recall receiving specific information from Mr. Thomson about a Commission vote, such as a unanimous vote, but in a pre-deposition interview he did say Thomson gave him the impression that the Commission was "working together" effectively on a number of cases.

Laurie Hawley, Laird's Executive Secretary, has been associated with him for ten years, including time with him in the Congress, at the Pentagon, and now at the Readers Digest.

^{1/} The investigators have confirmed that there had been such an allegation regarding Mr. Froehlich's campaign.

^{2/} Laird Tr. pp. 24, 25, 29

^{3/} Neither does Ms. Hawley. Hawley tr. p.5.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

7 9 0 1 0 1 3 5 3 8 7

Upon receiving the above information she called Carl Wallace, who has also worked for years with Melvin Laird, both in the legislature and executive branch, and who is now a Vice President of the Purolator Corporation, with offices in Washington, D.C. She found Mr. Wallace on the golf course at the Burning Tree Country Club and in a brief conversation told him that Laird had asked her to pass on to him the rumor that the Commission was investigating Sasser's campaign records.^{1/} She indicated that Laird wanted Mr. Wallace to pass the information on to the Brock people and have them investigate it.^{2/} She testifies that Laird did not ask that Wallace get back to her or Laird with any form of confirmation of the rumor.^{3/}

Early on the evening of October 22, 1976, Mr. Wallace looked up the home telephone number of Mr. Dan Kuykendall, a Republican ex-Congressman from Tennessee who currently does consulting work in Washington, D.C. He called Mr. Kuykendall at home at approximately 6:30 p.m. and related the information which Ms. Hawley had given him. Kuykendall testifies Wallace told him of a rumor that the Commission had unanimously voted to issue subpoenas for Sasser's records within the last couple of days and that Kuykendall should attempt to have the Brock campaign people "check it out."^{4/}

Mr. Kuykendall then called his Executive Secretary, Elizabeth Powell, at her home, and asked that she obtain a phone number for Thomas Bell, Brock's campaign manager in Nashville. Miss Powell telephoned Senator Brock's Senate

^{1/} Hawley Tr. pp 7-8.

^{2/} Hawley Tr. pp 8-9.

^{3/} Wallace testified that Kuykendall was the only person to whom he spoke about this matter within the relevant time frame. Wallace Tr. p.8.

^{4/} Wallace confirms only that he told Kuykendall that subpoenas had been issued and that should be checked out, but not that

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

office around 7:00 p.m. and obtained Bell's Tennessee phone number from Senator Brock's secretary. She called Bell in Nashville and told him that he should call Mr. Kuykendall who had some information for the Brock campaign. Later in the evening she telephoned Mr. Kuykendall to satisfy her curiosity as to what the information was. Mr. Kuykendall told her at that time that the Commission had voted to issue subpoenas for Sasser's records. She does not recall whether Mr. Kuykendall said the vote was unanimous but she gleaned from the conversation that the vote was "for sure."

7901013538
Thomas Bell formerly worked as Senator Brock's Administrative Assistant in the Senate, and became the Senator's Campaign Manager in February of 1976, at which time he moved to Nashville. He testified that he spoke by telephone with Kuykendall on the evening of Friday, October 22, 1976. In that conversation he states that Kuykendall told him the Commission had voted unanimously to issue subpoenas for Sasser's records.^{1/} Bell testified that Kuykendall indicated that his source was a person named "Carl", but Bell was unable under deposition to recall Carl's last name. Bell testified that Kuykendall represented that this information was a matter of public record and had been found by "Carl" in the course of doing some research at the Commission. Bell states that he told Kuykendall he did not know the procedures for confirming this information

^{1/} In an informal re-examination on December 15, 1976 Kuykendall reaffirmed that Wallace had told him the vote for subpoenas was unanimous. He pointed out that he had told Bell this within 30 minutes of having heard it from Wallace.

and asked for advice as to how he should proceed. Kuykendall recalls nothing of this portion of the conversation. Wallace has never done any research at the Commission.

It is unclear whether Bell was able to transmit the information further on the evening of Friday, October 22, 1976. It is unequivocally clear that he did transmit it at approximately 5:00 p.m. on Saturday, October 23, 1976, when he gave it by telephone to Mr. Robert Perkins, the Executive Director of the Tennessee Republican Party, and at that time, a half-time worker for the Brock campaign. Perkins had been on Senator Brock's Washington staff until the summer of 1976, when he moved to Nashville to assume his new post with the Tennessee Republicans, and to aid the Senator's re-election campaign. Prior to that move, Perkins had worked extensively on the Federal Election Campaign Act amendments of 1976, was thoroughly familiar with the law, and had come to know many Commission staff people.

Perkins had spent the day of Saturday, October 23, 1976 in Tunica, Mississippi and was on his way to a Brock fundraiser in Jackson, Tennessee, when he stopped at a gas station outside of Memphis and telephoned the Nashville campaign headquarters to determine if there were any messages for him. He was informed by Nancy Roberts, his secretary, that Bell wanted to speak with him and would call him right back. Bell did telephone him right back and told him that there was information that the Commission had subpoenaed Sasser's records. He states that Bell told him that the

79040135399
FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Commission action was apparently a matter of public record and Bell wanted him to check it out.

Perkins then made a series of credit card telephone calls from that same phone booth to Washington, D.C. He attempted to reach William Loughrey, Executive Assistant to the Commission's Chairman. He called Loughrey's home and left word with Loughrey's roommate, Thomas Gilboy, that it was "extremely important" or "urgent" that he talk to Loughrey. Loughrey was not available.

Perkins reached Commissioner Joan Aikens at her home. According to all testimony, after a few courteous preliminaries, Perkins said that he had heard that the Commission had voted in open session to subpoena records in the Sasser campaign; Ms. Aikens replied that the Commission had not done so, that she was not at liberty to discuss compliance matters, and that Perkins should talk to Dave Fiske, the Commission's Press Officer, who handles all compliance inquiries. This telephone conversation lasted approximately three minutes.^{1/}

Perkins also attempted to call Jan Baran, Counsel to the Republican Congressional Committee in Washington, D.C. He did not succeed. He attempted to reach Miss Victoria Tigwell, a Commission employee, but also failed to reach

^{1/} It should be noted for the record that on Monday, October 25, 1976 at approximately 1:00 p.m. the General Counsel was contacted in person by Commissioner Joan Aikens who related to him the phone call she had received Saturday evening from Bob Perkins at her home. The following day Commissioner Aikens provide a written rendition of that phone call for this file.

79040135390

her. As he was now behind schedule to reach Jackson, Tennessee by 7:00 p.m. that evening, Perkins called his wife, Beth Perkins, in Nashville, relayed to her the salient information, and asked that she attempt to contact the individuals he had failed to reach.

Shortly thereafter, Beth Perkins did make contact with Jan Baran and Victoria Tigwell, although the order in which this occurred is not clear. She reached Baran at his home in Washington, D.C. Their testimony coincides on the basic point that she informed him she had heard the Commission had taken certain action in the Sasser case and that she wanted to know if Baran knew anything about it. Baran indicated that he did not, that he was sure it was confidential and that he would be unable to find anything out about it. Subpoenaed telephone records reflected that this call was under three minutes in duration.

Mrs. Perkins reached Victoria Tigwell at the Perkins' house at 1100 Maryland Avenue, N.E., Washington, D.C., which Miss Tigwell occupied as a tenant. Miss Tigwell has known the Perkins since 1974 when they worked together in behalf of the Republican candidate for the Senate from Iowa. Miss Tigwell came to Washington, D.C. in the Spring of 1976 and rented the Perkins' house early that summer when the Perkins moved to Nashville. Bob Perkins had been of assistance in referring her to the Commission for employment possibilities. Miss Tigwell was first employed as a Commission auditor and then in the summer became a member

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135391

of the Commission's Ten Day Non-Filer Team, which monitors failures to file required pre-election reports. A co-worker on the Ten Day Non-Filer Team testifies that Miss Tigwell recurrently talked openly of the Tennessee Senatorial race and expressed a clear preference for Senator Brock. The co-worker similarly testified that Miss Tigwell was aware that a Democratic opponent had filed a complaint against Sasser. Since the Perkins' departure for Nashville, Miss Tigwell testifies that she has been in regular telephone communication with them on a whole range of matters, notably including on-going problems having to do with the restoration of the Perkins' Capitol Hill property.

When Beth Perkins telephoned her on the evening of Saturday, October 23, 1976, Miss Tigwell recalls that Mrs. Perkins stated that they had heard in Tennessee that the Commission had subpoenaed Sasser's campaign records. Mrs. Perkins asked whether Miss Tigwell knew anything about it. Miss Tigwell states that she told Mrs. Perkins she knew nothing about it. In the course of this conversation Mrs. Perkins learned that Miss Tigwell would be out that evening for dinner with Daniel Reese, the Executive Assistant to the Commission's Staff Director. However, Mrs. Perkins denied that she suggested that Miss Tigwell question Mr. Reese with respect to the subpoenas.^{1/}

^{1/} Bob Perkins testified, with regard to this point: "I think Beth indicated [to her husband] she had asked Vicky to find out what she could." Bob Perkins Tr. p.82.

OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Miss Tigwell's parents were visiting Washington at the time and she went with them to dinner in the company of Mr. Daniel Reese, with whom she had developed a close social relationship. After dinner she and Reese returned her parents to the Maryland Avenue, N.E. residence and then went on to continue the evening elsewhere. In transit in Reese's automobile, Miss Tigwell said that she had heard that the Commission had subpoenaed Sasser's records. She may have preceeded this by saying that Beth Perkins had called her with this information. In any event Reese knew that the Perkins had made this inquiry because, whether she offered the information at the outset or only in response to his later question, there is no doubt Miss Tigwell told him that the question had been posed by the Perkins.

Reese confirmed that the Commission had in fact issued subpoenas against Sasser. In later reviewing his deposition and in response to a question, Reese said that he "may have" said something about a unanimous vote. Reese testified that he warned her in the car that she should not talk about the matter. In any event Miss Tigwell had been thoroughly warned on numerous earlier occasions with regard to the confidentiality requirement of the Federal election laws. According to Mr. Reese, this portion of their conversation that evening was very brief, and the Sasser matter was not adverted to again after the exchange in Reese's automobile.

At approximately 9:00 a.m. the morning of Sunday, October 24, 1976, Miss Tigwell telephone Bob Perkins from

79040135393

her Maryland Avenue N.E. residence. Perkins was at his home in Nashville. In a conversation which lasted four minutes and thirty seconds, she confirmed that the Commission had issued subpoenas for Sasser's records. Perkins, under close questioning, testified that he must have received the information regarding the 6-0 vote from her that Sunday morning.^{1/}

79040135394
The state of the record regarding contact between Perkins and Bell on this subject that Sunday, October 24th, is somewhat confused. Bell and Perkins do agree that they were together at Bell's home that evening, along with other Brock campaign staffers for the regular weekly meeting at which campaign activity was reviewed, and that during that meeting Bell and Perkins spoke in a separate room by telephone to Tom Ingram of The Nashville Banner. Ingram is the reporter whose by-line appeared on The Banner story of October 25, 1976 regarding the Commission's subpoena action.

In variant terms, Bell's and Perkins' testimony is in agreement on the point that at least one of them discussed subpoenas with Ingram in the telephone conversation with him that Sunday evening; but only Perkins is strong on the point that either he or Bell told Ingram that the vote was 6-0; Bell's recollection of this is very hazy.

^{1/} Bob Perkins Tr. p. 84. Perkins did not recall whether Tigwell indicated during this phone call that Reese was the source. He does say Reese was discussed by Tigwell and him at the Thursday morning breakfast, October 28, 1976.

During this same conversation with Ingram, and pursuant to discussion they had previously had with each other, either Bell or Perkins suggested to Ingram that one way for the reporter to proceed would be to call Sasser's campaign staff and ask for a simple affirmation of the fact that the subpoenas had been issued. Very early the following morning, October 25, 1976, Ingram did just that. He first called Jerry Grant, Sasser's Campaign Manager, and said that he had learned that the Commission had issued subpoenas which were to be returned during the coming week. Grant was noncommittal since he was totally ignorant of the facts. Ingram then called Gary Blackburn, Sasser's Campaign Treasurer, and found him at breakfast. Blackburn was accurately quoted in The Banner story that appeared later in the day. He fairly successfully evaded the question of whether subpoenas had been issued, managing to characterize the Federal Election Commission's communication as no more than a request for additional records which would be supplied in the ordinary course.

Ingram then called David Fiske in Washington, D.C. at Fiske's home. Fiske is accurately quoted in the October 25, 1976 story as saying that there could be no comment on a compliance matter. Ingram then went with the story in the early edition of The Banner, which is Nashville's afternoon newspaper.^{1/}

^{1/} Parenthetically, it should be noted for the record that on Sunday, October 24, 1976, at approximately noon (after Tigwell's call to Perkins that morning), William Loughrey Executive Assistant to the Commission's Chairman, came to the Commission and there encountered Miss Tigwell

and another member of the Ten Day Non-Killer Team, Miss Suzanne Callahan. Miss Tigwell indicated to Mr. Loughrey that Bob Perkins was looking for him or "wanted to talk to you about the Sasser case." Loughrey testified that at that point he responded by saying "yeh, it must be about the subpoenas" or he may have said "yeh, do you think it's about the subpoenas?" In any event he indicated that he needed a phone number from Mr. Perkins. Miss Tigwell gave him one. Loughrey subsequently tried that number and found it was incorrect, although the party at the other end indicated that Bob Perkins had once lived there. Loughrey's and Perkins' testimony is in accord on the point that Perkins never was re-contacted by Loughrey.

7 9 0 4 0 1 3 5 3 9 6

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

III. The Investigatory Process

Following preliminary discussion of the article in The Banner at its Tuesday, October 26, 1976 Executive Session, the Commission met in special Executive Session on Wednesday, October 27, 1976 and there authorized the Commission's General Counsel to proceed with an inquiry into the apparent breach of confidentiality reflected by that article. The initial procedure approved was to take the testimony of all Commission staff who had been present at the October 19th Executive Session, as well as the testimony of any other employees identified as possibly possessing knowledge of details of Commission actions in the Sasser case.

On October 29, 1976, the first staff depositions were taken, including those of Victoria Tigwell and Daniel Reese. Among other things to which Miss Tigwell testified, she stated she had had a breakfast meeting with Bob Perkins on Thursday morning, October 28th at the Hyatt Regency Hotel in Washington, D.C., at which time her pending deposition was discussed. During Perkins' deposition, he stated that at that breakfast meeting they had made passing reference to her phone call to Perkins on Sunday morning, October 24, 1976. Neither Miss Tigwell nor Mr. Perkins proved willing to describe the details of that breakfast conversation with any great specificity. Under deposition Tigwell was not adequately questioned with respect to her conversation with Daniel Reese on the evening of Saturday, October 23, 1976; the only details she divulged with regard to it were

79040135397

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
BUREAU OF GENERAL COUNSEL

that she told Reese that Beth Perkins had called and that she had relayed to Reese what Beth Perkins had said about subpoenas. The additional details were supplied subsequently by Reese's testimony. Tigwell failed, in response to questioning, to admit the telephone conversation she had had with Perkins on the morning of Sunday, October 24, 1976.^{1/}

On Saturday, October 30, 1976, all of the voting Commissioners were deposed. During the ensuing week of November 1, 1976 further depositions were taken of staff personnel identified as having attended the October 19, 1976 Executive Session, or as otherwise having familiarity with the Sasser matter.

On November 10, 1976, the General Counse and Mr. Hershman travelled to Nashville, Tennessee, and during the course of the following morning, November 11, 1976, interviewed a number of individuals connected with the Sasser compliance matter. These included George Barrett, Mr. Sasser's attorney; Gary Blackburn, the Sasser Campaign Treasurer; representatives of the First National Bank of Tracy City, Tennessee and the United American Bank of Nashville, Tennessee; and an attorney associated with the firm serving the United American Bank. Their responses to close questioning strongly support the proposition that the breach of confidentiality at issue here was not occasioned by careless talk on the part of persons

^{1/} Tigwell 10/21/76 TR. p. 18.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY

79040135399

associated with the subpoenaed banks or the Sasser campaign. The fact that the subpoenas had issued was very closely held, on instructions by George Barrett. The fact that The Banner story did not mention the bank subpoenas makes it relatively clear that the banks were not the source of any leakage of information; had Ingram known of the additional subpoenas, he surely would have included that detail in his article. Within the Sasser campaign, only Barrett, Blackburn and eventually Sasser's campaign chairman knew that the subpoenas had issued (Jerry Grant, the Campaign Manager, did not know this as a fact but had only heard it on the morning of October 25, 1976 from Ingram). It was the investigators judgement that, except for what Blackburn told Ingram during the early morning conversation of October 25, 1976, there had been no leakage of information from the Sasser structure. Moreover, no one in the Sasser campaign or at either of the banks could have been aware of what the Commission's vote was and accordingly could not have supplied that detail for The Banner article.^{1/}

During the afternoon of November 11, 1976, both Robert Perkins and Beth Perkins, accompanied by Counsel, were deposed. The depositions commenced at 2:00 p.m. with Mr. Perkins. His deposition was interrupted to take that

^{1/} It should be remembered that The Banner article was in error on the vote.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

- 18 -

of Mrs. Perkins in order that she could make airplane that day. Mr. Perkins deposition was resumed at approximately 5:00 p.m. in the afternoon and concluded at approximately 6:45 p.m. It was during the course of these depositions that Thomas Bell, Brock's Campaign Manager, was first identified as having participated in the chain of communication. Both Bob and Beth Perkins testified unequivocally that Bell had never given them his source.

On November 17, 1976, Thomas Bell accompanied by Counsel was deposed in the Office of General Counsel at the Federal Election Commission. During this deposition, Dan Kuykendall was first identified as having participated in the chain of communication. Bell also identified "Carl" as Kuykendall's source but could not further describe him except to characterize him as perhaps a "lawyer--lobbyist friend" of Kuykendall.

On November 18, 1976 at 10:00 a.m. the General Counsel and Mr. Hershman interviewed Mr. Kuykendall at his 16th street office in Washington, D.C. Mr. Kuykendall stated (and later reaffirmed under deposition) that he had received a phone call at his home one evening late in the week of October 18th. The caller, whom Mr. Kuykendall would not identify during the course of this interview, told him that within the last few days the Federal Election Commission had taken a unanimous vote to subpoena records of the Sasser campaign. He described his source as a prominent person,

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135400

one who had served in the legislature, although not in an elective capacity, and who had also served with the executive branch of government, although not for the last four years. He indicated that he was unwilling to identify the source until the source had given him clearance to do so. It was agreed that he would attempt to reach his source that day and that he would be back in contact during the course of the afternoon. He indicated that if his source asked him not to cooperate, he would resist a subpoena. The interview terminated.

In the late afternoon of November 18, 1976, Mr. Kuykendall telephoned the General Counsel to state that he had been unable to contact his source and that that person would be unavailable until Monday, November 22. While this statement was received by the investigators with skepticism, and while they assumed that the intervening weekend would be used by Mr. Kuykendall and other to consult with regard to the investigation, it was decided not to issue a subpoena to Mr. Kuykendall at that time.

Within the following 24 hours, using the information supplied by Bell and Kuykendall with respect to "Carl," and drawing on informal sources, the investigators conditionally identified Kuykendall's contact as Carl S. Wallace, Vice President of the Puralator Corporation. It was nonetheless decided to await Mr. Kuykendall's telephone call on Monday,

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135401

79040135402

That call was received at approximately 9:00 a.m. on the 22nd. Mr. Kuykendall identified his source as Carl S. Wallace and indicated that Mr. Wallace was expecting to hear from the Commission.^{1/}

Mr. Wallace was immediately telephoned and an interview was granted forthwith at Mr. Wallace's office in downtown Washington, D.C. Mr. Wallace stated that he had received a telephone call at the Burning Tree Country Club on Friday, October 22, 1976 from Ms. Laurie Hawley, secretary to Melvin Laird. He stated (and has reaffirmed under oath) that Ms. Hawley had indicated to him that Laird had called her and asked to see if Wallace knew anyone in the Brock campaign; that Laird had told her that the Commission was issuing subpoenas for the records of Brock's opponent; and that this information should be "checked out."^{2/} Wallace then stated that he passed the information on to Kuykendall at Kuykendall's home that evening.

Laird's office was then telephoned by the investigators from the first floor of Wallace's office building. A secretary took the message and said that she would be back in touch. Ms. Hawley called the General Counsel during the afternoon of November 22, 1976 stating that Laird was indisposed that day, and would be out of town November 23, but would be available for a meeting at 10:00 a.m. November 24, 1976.

^{1/} Kuykendall testifies that to this day, he has not learned the identify of Wallace's source.

^{2/} Wallace's Powell's and Kuykendall's testimony makes it plain that they all understood that the information was to be put to political use.

7 9 0 4 0 1 3 5 4 0 3

On November 2, the investigators met with Melvin Laird at his office on Rhode Island Avenue in Washington, D.C. Present at that meeting was Ms. Laurie Hawley. A key detail of this interview was Melvin Laird's representation that some time toward the end of October he had received information in Washington, which he characterized as rumor, that the Commission had acted or was about to act to obtain records in connection with the Sasser investigation. He declined at this time to identify his source. He deprecated the value of the information he had received. He indicated that he had learned as early as September, from friends on Capitol Hill, that campaign loans were at issue in the Tennessee Senatorial race, and this had interested him because he had been considering an article on abuse of the campaign laws, specifically with respect to campaign loans and personal expenditures by candidates. He set out the Readers Digest policy against revealing the identity of confidential news sources, although he stopped short of invoking a newsman's privilege. He represented that he had the impression that the rumor he had received was public knowledge, since it was his impression that everything the Commission did was done publicly. Notwithstanding these impressions, he did not think the Readers Digest policy regarding confidentiality could be breached. He indicated a willingness to cooperate if there was some way that the investigators could assure that he and the Readers Digest would remain unidentified. Several alternatives were discussed, to none of which was he particularly responsive.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

On several occasions he declined to state that his source was not within the Commission. The interview terminated after approximately an hour with the understanding that Laird would consult with the Digest Counsel as to whether or not he should answer the questions of 1) who gave him the information, 2) when and where it was given, and 3) who else, if anyone, was involved.

It is now clear that either on Thursday, November 18, or relatively early Friday, November 19, Kuykendall was in fact in contact with Wallace, and that Wallace was immediately in contact with Laird. In short, these three figures had in some fashion consulted prior to the morning of Monday, November 22, 1976 when Mr. Kuykendall called the General Counsel to identify Mr. Wallace. It is also now clear that some time between Wallace's contact with Laird on November 18th or 19th and the investigators' interview of Laird on November 24th, Laird telephoned Vernon Thomson. The investigators did not learn at this telephone conversation until December 4, 1976.

Because of the intervention of the long Thanksgiving Day weekend following the Laird interview, nothing further was done with respect to the investigation until the week of November 29, 1976. On November 30, 1976, the General Counsel spoke with Laird by telephone. The conversation was largely an abbreviated replication of the contents of the November 24th interview. Mr. Laird was informed that,

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
RECEIVED BY GENERAL COUNSEL

79010135404

given the state of the record before the investigators at that time, a recommendation would be made to the Commission that formal depositions be taken. He indicated that he would resist such a procedure. He nonetheless indicated that he would talk further with his Counsel.

Several subsequent efforts to reach Laird again prior to the Commission's December 2, 1976 meeting failed. At that Commission meeting the General Counsel sought and received from the Commission subpoenas for Laird, Hawley, Wallace, Powell and Kuykendall, as well as for the passenger lists of several Northwest Airlines flights to Milwaukee on October 21, 1976.^{1/} At approximately 10:00 a.m. in the morning of December 3, 1976, telephone contact with Laird was resumed. In the early stages of that conversation, it appeared

^{1/} Immediately prior to the December 2nd Commission meeting the General Counsel, accompanied by Mr. Hershman approached Chairman Thomson in the Commission's 5th floor reception area. Counsel told the Chairman that the investigators had tracked the leak back to Melvin Laird and that Counsel was about to request a subpoena for certain airline passenger lists for flights to Milwaukee which Laird may have taken on Thursday, October 21, 1976. The Chairman expressed no surprise or other emotion at the mention of Laird's name. Counsel stated that as a matter of courtesy he wished to inform the Chairman of this imminent request because of the chance that, October 22nd - 25th having been a long holiday weekend, the Chairman, a Wisconsinite, might also have been on one of the flights. The Chairman expressed no concern whatsoever at the time and indicated that he normally flew to Wisconsin only on Tuesdays, to attend certain Board meetings.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135405

that Laird's position had not changed whatsoever since the last contact. He was then informed that the Commission had authorized subpoenas for him and other persons. He expressed extraordinary concern over this development. This conversation ended with the understanding that he would be in touch with his counsel, and at some point would probably be back in touch with the investigators. He called back at approximately 11:15 a.m. that same morning and expressed great interest in the possibility that some arrangement could be worked out whereby anonymity could be preserved. It was tentatively agreed that he would meet with the investigators the following Monday morning, December 6, 1976 at 11:00 a.m. at his office. Laird then went to lunch with his counsel and this matter was discussed. It is now clear that sometime during that same day Laird called Vernon Thomson and, at the very least, indicated disappointment that Mr. Thomson had voted for a subpoena for information which Thomson already had.^{1/}

On Saturday morning December 4, 1976 at 9:30 a.m. the General Counsel received a telephone call at his residence from Marilyn Early, Vernon Thomson's secretary. Ms. Early indicated that the Chairman wished to speak with the Counsel and requested that Counsel call. In the ensuing telephone

^{1/} Laird Tr. p. 38. In his December 7th interview with the investigators Mr. Laird had expressed himself rather more forcefully on this point.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135406

call, the Chairman told the Counsel that he was disturbed about their brief conversation prior to the Commission meeting of Thursday, December 2, 1976, and by the Counsel's presentation to the full Commission in Executive Session later that day, in which Laird had been identified as part of the chain of communication. The Chairman indicated that he would like to meet with the Counsel sometime during the weekend. It was agreed that Counsel would meet at the Chairman's home later that afternoon.

That meeting commenced approximately 4:15 p.m. The Chairman indicated that he had reviewed his deposition and that in view of the Counsel's presentation to the Commission on December 2, 1976 and Laird's apparent involvement, there was an additional matter of which the Counsel should be informed. The Chairman then recounted his meeting with Laird at the University Club on the evening of October 19, 1976. He stated that at that cocktail reception for Robert Spitzer he had been aggressively approached by Laird who had berated the Commission for not acting expeditiously on complaints and for apparently pursuing a policy of postponing compliance actions until after the election. The Chairman said that he may have overreacted to Laird's attack. He stated that he had defended the Commission's action by vehemently replying that the charge of inaction was completely false and that the Commission was moving forward on all matters and was acting very vigorously.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135407

79040135408

The Chairman said [redacted] did not say anything about the Sasser case or Brock, nor did he mention subpoenas. In response to a question, the Chairman said that Laird may have said something about the Commission improperly permitting bank loans to candidates. The Chairman was emphatic that he had not said anything specific about any investigation but had merely spoken in generalities in defense of the Commission's position.

Counsel asked the Chairman whether Laird had been in touch with him since the October 19, 1976 reception. The Chairman stated that Laird had called him several weeks ago to ask who Mr. Murphy was and why Murphy was seeking an appointment with Laird. The Chairman stated that he explained to Laird that the Commission had authorized an investigation and that the Counsel was doing his duty in carrying it out. Counsel asked whether during this telephone conversation the Chairman and Laird had spoken about their previous exchange at the University Club on October 19, 1976. The Chairman said that that conversation did not come up. The Chairman did not inform the Counsel of Laird's telephone call of December 3, 1976.

Apart from Robert Spitzer, the Chairman identified Hyde Murray as having been present at the University Club that evening^{1/} but was unable to recall who else may have been present.

^{1/} Hyde Murray was interviewed by the investigators on December 9, 1976 at his office at the House Committee on Agriculture. Murray recalls having attended the University Club function, and saw Laird and the Chairman there, but did not overhear the contents of their conversation.

79040135400
Counsel recommended to the Chairman that he search his memory for the identity of additional persons who may have heard his exchange with Laird on October 19, 1976. It was also agreed that the Chairman should in some way supplement the existing record in this investigation. The interview terminated shortly before 5:15 p.m. Counsel immediately dictated a memorandum of the interview from a public telephone booth at the intersection of Kirby Road and Route 123 in McLean.^{1/} Later that evening the Counsel telephoned Mr. Hershman and described the interview in detail.

On Monday, December 6, 1976 the investigators met at 11:00 a.m. with Mr. Laird, and Mr. Timothy May, the Readers Digest local counsel. At several points during the course of this discussion, Mr. May expressed displeasure over the fact that Federal law might be applied to a situation in which one had ascertained certain information during the course of a cocktail party conversation, or that Federal investigations should ensue in the wake of comments having been made in the heat of provocation. He strongly indicated that the Readers Digest would resist the subpoena if it issued. This interview terminated with the agreement that Mr. Laird would talk to his source and seek permission to give the investigators the requested information.

At approximately 1:30 the investigators met with the Chairman who indicated that he had spoken with Laird around noon. After a limited discussion, the Counsel asked if

^{1/} A copy of that memorandum is attached hereto.

7 9 0 1 0 1 3 5 4 1 0

the Chairman would telephone Mr. Laird and grant permission to him to talk to the investigators. The Chairman agreed that he would, and thereafter at approximately 2:00 p.m. he notified Counsel that permission had been granted. Counsel was unable to arrange for a further meeting with Mr. Laird that day, but an appointment was made for 10:00 a.m. the following morning, December 7, 1976.

At that December 7th meeting, accompanied by Mr. May, Laird indicated that he had approached Mr. Thomson aggressively at the October 19 University Club function and had needled him about the Commissioners' failure to act on compliance matters. He said that at that time he had specifically mentioned loan problems in Tennessee, Minnesota and Maryland. He recalled that the Chairman had said that the Commission was acting to investigate records in these campaigns. He could not recall that either he or the Chairman had used the word subpoena nor did he have any recollection of receiving information about a specific Commission vote. He indicated that he did receive a strong impression that the Commission was acting vigorously and currently in these cases. He did not recall whether the name Sasser came up, but was certain that the name Brock had not been mentioned.

He recalled thereafter calling the Chairman, sometime between November 19, and November 23, to inquire about Mr. Murphy and why the latter was seeking an appointment with him. He stated he wanted to know what was going on. He stated that during that phone call the October 19th

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

University Club meeting was probably mentioned and that he had told the Chairman that the Chairman was the only one with whom he had discussed the Tennessee matter. He stated further that upon receiving notice on December 3, 1976 from Mr. Murphy that the Commission had issued a subpoena, he had called the Chairman to ask why the Chairman voted for a subpoena when the Chairman was fully informed of the relevant facts.^{1/}

On December 15, 1976, Mr. Laird was deposed. Under oath, he showed great reluctance to be as specific as he had been in informal meetings. The transcript of that deposition is attached hereto and should, as earlier suggested, be read in its entirety. Pages 5-16 and 25-45 are particularly relevant.

During the course of the deposition (pp. 48-49) the investigators first learned that Mr. Thomson was apparently represented by an attorney named Jerris Leonard, who earlier that week had talked to Carl Wallace and to two assistants in Laird's office. Through each of these individuals Mr. Leonard sought to obtain an appointment to see Mr. Laird prior to Laird's deposition (Tr. p.48), but Laird had referred him to Mr. May, the Digest counsel, and never did talk to him. Leonard had asked Wallace what Wallace had told the investigators; Wallace told him.

^{1/} Again, this December 3rd telephone call was not mentioned by the Chairman when he met the General Counsel at his McLean home the next day, Saturday December 4th.

79040135412

After returning to the Commission from his deposition, the General Counsel informed the Chairman of the Leonard reference during the deposition, and the Chairman confirmed that Leonard was representing him. Counsel indicated that perhaps Mr. Leonard should be present during the Chairman's upcoming re-deposition. The Chairman indicated that Counsel should talk to Leonard about that and provided Counsel with Leonard's telephone numbers. The General Counsel talked with Leonard late that afternoon and an appointment at Leonard's office was arranged for 2:00 p.m. Thursday, December 16th.

At that meeting, the investigators spoke candidly and at length with Mr. Leonard about the state of the record in this case. There was prolonged discussion of what further developments in the case might conceivably be, from referral for criminal prosecution at one end of the spectrum, to informal internal reprimand on the other. By the close of the conversation, the investigators had identified, and Mr. Leonard had duly noted, six significant discrepancies or omissions on the record which bore on the Chairman's credibility. These were:

1. The Chairman's failure to disclose to the Commission or the staff, prior to December 2, the telephone call from Mr. Laird that came in sometime between November 19 and 23.

2. The failure of the Chairman to disclose the October 19, 1976 meeting with Mr. Laird and the initial Laird telephone conversation, once the General Counsel had made a

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135413
presentation identifying Mr. Laird at the December 2, 1976 Commission meeting, a meeting at which Commissioner Harris had promptly stated that he had met with Mr. Laird sometime around October 19 at the Hay Adams Hotel.

3. The failure of the Chairman to disclose the October 19, 1976 meeting with Laird and the initial Laird telephone conversation until thirty-six hours after the December 2, 1976 Commission meeting, when disclosure was finally made to the General Counsel at the Chairman's home in McLean, Virginia.

4. The Chairman's statement during the December 4, 1976 meeting at his home with the General Counsel that in the course of Laird's initial telephone conversation, the University Club meeting of October 19, 1976 "did not come up"; Mr. Laird had informed the investigators on December 7, 1976 that that October 19, 1976 meeting probably was discussed in the first telephone conversation, and the Chairman now testifies that it was mentioned.

5. The failure of the Chairman to disclose in his Saturday, December 4, 1976 meeting with the General Counsel that the October 19, 1976 meeting at the University Club had included specific reference to the Tennessee, Minnesota and Maryland loan complaint situations. The General Counsel pointed out to Mr. Leonard that in the December 4, 1976 meeting with the Chairman, the Chairman had stated that he defended the Commission against Mr. Laird in very general terms and had in no way been specific. Mr. Laird, of course, had informed the investigators on December 7, 1976

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY

that Tennessee had in fact been mentioned on October 19, 1976.

6. The failure of the Chairman to disclose at his Saturday, December 4, 1976 meeting with the General Counsel that Mr. Laird had telephoned him the day before, December 3rd.

Mr. Leonard met with Mr. Thomson at 10:00 a.m. on Friday, December 17, 1976. At noon on that day, Mr. Leonard telephoned the General Counsel and the Chairman's re-deposition was arranged for 9:30 a.m. on Monday, December 20th at Mr. Leonard's office.

On December 20, under deposition, Mr. Thomson stated:

1. That he had told the General Counsel at the Saturday, December 4th meeting that Tennessee, Minnesota and Maryland had been mentioned in the conversation with Laird on October 19;

2. That he had told the General Counsel at the meeting of Saturday, December 4th that Laird had called him not once but twice;

3. That in the initial telephone conversation with Laird sometime between November 19 and November 23, the University Club conversation had been mentioned in some fashion;

4. That he had been "struck like a thunderclap" by the General Counsel's presentation of December 2, 1976 to the full Commission regarding Laird's involvement, and that after he had pondered over the General Counsel's presentation, it came to him that he should correct his deposition and thus call the General Counsel in a timely fashion on Saturday morning, December 4th.

5. That Commissioner Harris' prompt declaration during the meeting of December 2nd that Harris had met with Laird around October 19 should be viewed as involving

79010135414

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

"different circumstances." The implication of this statement by the Chairman was that Harris' December 2 declaration did not bear on the Chairman's silence at that same meeting with regard to his own contact with Laird.

Due to the pressures of time, this report at this juncture does not purport to fully review either Mr. Laird's or Chairman Thomson's deposition. It is recommended that both be thoroughly read. Suffice it to say that Chairman Thomson's testimony completely and unequivocally denies that in his conversation with Mr. Laird on October 19, 1976 he did more than defend the Commission in general terms, although certain States were indeed mentioned; that he gave Mr. Laird the specifics of any complaint; or that he gave Mr. Laird any information regarding any Commission vote on a compliance matter.

At the close of the deposition, Mr. Leonard expressed the hope that he would be able to meet with the General Counsel prior to the time when the latter made his report to the Commission. The General Counsel was noncommittal.

III. Possible Further Investigatory Steps

Two additional classes of persons who arguably maybe able to supply an additional relevant information have not been interviewed. First class is comprised of the approximately 50-75 persons who attended the University Club function on October 19, 1976. The investigators do not have the names of these individuals but could probably obtain them.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

70040135415

The second class is comprised of the Brock campaign staff people other than Perkins and Bell, who attended the staff meeting at Thomas Bell's home in Nashville on October 24, 1976.

It is the Counsel's current recommendation that further interviews of persons present at the University Club not be held; it would appear that no one overheard the conversation between Mr. Laird and Chairman Thomson. Nor does there seem to be great merit to proceeding with interviews of persons present at Bell's home on October 24, 1976; the relevant conversation with Tom Ingram took place in a room apart from the room in which the main staff gathering occurred. And there is no indication on the present record that the Commission's action was a subject of discussion except among Bell, Perkins and Ingram. Nonetheless, the Commission may wish to examine the option of having these people examined.

79040135416

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

IV. Legal Analysis

The first issue is to what extent 2 U.S.C. §437g is applicable to the conduct of various individuals involved in the above-described chain of communication. In relevant portion, that section states:

2 U.S.C. §437g(a)(1)....

(2) the Commission upon receiving any complaint under paragraph (1), and if it has reason to believe any person has committed a violation of this Act or of Chapter 95 or Chapter 96 of the Internal Revenue Code of 1954, or, if the Commission on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities, has reason to believe that such a violation has occurred, shall notify the person involved of such alleged violation and shall make an investigation of such alleged violation in accordance with the provisions of this section.

(3)(A) Any investigation under paragraph (2) shall be conducted expeditiously and shall include an investigation, conducted in accordance with the provisions of this section of reports and statements filed by any complainant under this title, if such complainant is a candidate.

(B) Any notification or investigation made under paragraph (2) shall not be made public by the Commission or by any person without the written consent of the person receiving such notification or the person with respect to whom such investigation is made.

....

(c) any member of the Commission, any employee of the Commission or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than \$3,000. Any such member, employee, or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more \$5,000. (Emphasis supplied.)

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135417

7 9 0 4 0 1 3 5 4 1 8

The above quoted language §437g(a)(3)(B), to the effect that "any notification or investigation made under paragraph 2 shall not be made public" has not been formally construed by the Commission, nor, of course, by any court. The legislative history of the 1976 amendments to the Federal Election Campaign Act is not helpful as to the meaning of the phrase "made public"; the only indication there is that Congress meant "disclosure." S. Rep. No 1237, 93rd Congress 2nd Sess. 94 (1974). There has been no judicial review of the constitutional permissibility of imposing a confidentiality requirement upon persons other than Commission employees. That that confidentiality requirement may appropriately be imposed upon Commission employees would appear at least inferentially to be the lesson of cases such as Stanley v. U. S. 376 F.2d 857 180 Ct. Cl. (1967) and Iantiri v. Morton, 327 F. Supp. 873 (E.D. Penn. 1971), remanded on other grounds, 463 F.2d 179.

A. Commission Personnel

It is the General Counsel's recommendation that the Commission interpret the statutory language regarding making investigations public in the following manner: Whenever a Commission employee communicates information, other than in the ordinary course of an investigation, to any person not officially employed with the Commission, a violation of the confidentiality requirements of 2 U.S.C. §437g may be found if the communication directly results in knowledge on the part of the recipient of the information

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

that the Commission is conducting an investigation with respect to a specific individual, committee, or other organization or group.^{1/}

So interpreted, the concept of making a matter public would not encompass communications between Commission employees regarding specific Commission compliance activity. Applying this interpretation to the actions of Commission personnel involved in this case leads to the following conclusions:

1. Victoria Ann Tigwell

The evidence is clear that Miss Tigwell on Sunday, October 24, 1976, "made public" the Commission's investigation of the Senatorial campaign of James Sasser of Tennessee by specifically communicating to an individual in the private sector, namely Robert Perkins, a part-time aide in the campaign of incumbent Senator William Brock, the fact that the Commission had subpoenaed Sasser Committee records.

RECOMMENDATION: The Staff Director placed Miss Tigwell on administrative leave with pay on November 29, 1976. I recommend that the Staff Director now initiate appropriate procedures to terminate Miss Tigwell's employment with the Commission. Such procedures may appropriately include a provision for argument by her Counsel before the Commission that a personnel sanction short of dismissal be imposed. In the meantime, I recommend that the Commission find reason to believe that Miss Tigwell violated the confidentiality requirement of 2 U.S.C. §437g(a)(3)(B). Conciliation

^{1/} This statement of the test is not exhaustive. There may be cases where the Commission is about to investigate, or has concluded an investigation, where the matter is not yet properly public. Such instances would be subject to variant wording of the cited proposition.

7 9 0 4 0 1 3 5 4 1 2

FEDERAL RECORDS COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135420

agreement negotiations with Miss Tigwell's attorney are ongoing and may well result in a settlement, as well as a waiver by her of further formal Commission findings to which she would otherwise be entitled.

2. Daniel Reese and William Loughrey

The foregoing recommended interpretation of the "made public" language of 2 U.S.C. §437g does not cover the communications of Reese to Tigwell on the evening of Saturday, October 23, 1976 nor of Loughrey to Tigwell on Sunday, October 24, 1976. Both communications were Commission employee to Commission employee. Accordingly, there is no reason to believe that either Reese or Loughrey violated §437g(a)(3)(B). I am of the view, however, that Mr. Reese's October 23rd confirmation to Miss Tigwell that Sasser subpoenas had issued, at a time when Reese knew that Brock supporters, i.e. the Perkins in Tennessee, had asked about this subject, amounted to an extraordinarily serious error of judgement. Severe disciplinary action is indicated, in my judgement. I say this notwithstanding my appreciation of the fact that Mr. Reese, during his deposition, was forthcoming with regard to his confirmatory statement to Miss Tigwell that Saturday evening.

With respect to Mr. Loughrey, both his remarks to Miss Tigwell during the afternoon of Sunday, October 24th and the context in which they were uttered, are somewhat unclear on this record. He would appear to have been carelessly offhand in indicating to Miss Tigwell that Perkins might be

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

checking out the subpoenas, but I have no recommendation as to what disciplinary action may be in order.

3. Vernon W. Thomson

7 9 0 4 0 1 3 5 4 2 1
The question of whether there is reason to believe Mr. Thomson "made public" a Commission investigation turns in part upon whether his recollection or that of Mr. Laird is better with regard to their conversation at the University Club on October 19, 1976. Mr. Thomson states emphatically that he said nothing specific to Laird, that "subpoenas," "Brock" and "Sasser" were not mentioned, and that he does not recall saying the Commission was "investigating the records" or "moving to obtain records" in compliance actions involving Tennessee and other named jurisdictions. Mr. Laird's best recollection under oath, on the other hand, is that Mr. Thomson had used the terminology "investigation of records," and had indicated "that these records or these complaints would be investigated, and that the Commission was going to pursue this matter and try to get answers."^{1/}

^{1/} Laird's testimony differs from Mr. Thomson's testimony in three additional salient respects:

- 1) Laird states that he and Thomson reviewed the contents of their October 19th conversation, probably on Friday, December 3rd; Thomson states that no such review occurred; (Laird Tr. p 44, Thomson tr. p. 18)
- 2) Thomson does not agree that Laird expressed disappointment to him on December 3rd that the Commission had issued subpoenas (Laird Tr. p. 38, Thomson Tr. p. 16)
- 3) Thomson does not agree that on December 3rd Laird "certainly did" tell him to tell the Commission staff of the October 19th conversation (Laird Tr. p. 4, Thomson Tr. p. 17)

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

70010135122

At several points during the deposition, Laird made statements such as "I did get the impression that it was a very active matter, and that the Commission was pursuing these complaints vigorously; I got the impression that it was an immediate, ongoing matter, and that the Commission was pursuing the matter vigorously." This testimony conforms to earlier statements made by Laird to the investigators.

It is to be remembered that as the information makes its way toward Tennessee on October 22nd, its recipients grow increasingly specific as to its contents. Laird testified he told Hawley of a rumor that the Commission was investigating the records of Brock's opponent. Hawley testifies to the same effect. But Wallace was clear that Hawley had told him the records had been subpoenaed. And Kuykendall swears Wallace told him the rumor was that the Commission had voted unanimously to issue subpoenas that week. Bell testifies that Kuykendall told him of a unanimous subpoena vote and that Kuykendall had said "Carl" [Wallace] had said so to Kuykendall. Powell testifies to learning of a "sure" vote for "subpoenas." It should further be noted that each of these persons swore that they had only spoken about this matter with the individuals they identified on the record.

This increasing specificity lends credence to the idea that Mr. Laird's initial transmission to Hawley was even more

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135423

particularized than either one remembers. Unless something had been said by Mr. Thomson regarding Commission pursuit of "records" in the several campaigns, it would appear to have required an extraordinarily intuitive leap by Mr. Laird to put in motion information which Mr. Wallace clearly recalls as involving at least "subpoenas" for Brock's opponent. It may reasonably be inferred from the record as a whole, notwithstanding Mr. Thomson's belief, that he in fact told Mr. Laird at least that the Commission was acting in some fashion to obtain records in connection with Tennessee. The inference is reasonable notwithstanding the fact that Mr. Laird did not transmit information to Hawley until two and one-half days after the October 19th conversation, a gap that has not thus far been satisfactorily explained.

In the General Counsel's view, such an inference may properly be drawn at this time and should be. That something compromising may have been uttered by Mr. Thomson on October 19th is implicitly buttressed by his remarkable failure until December 4th to report to Commission staff that he had spoken by telephone with Mr. Laird about this investigation and the University Club conversation perhaps as early as November 19th and certainly not later than November 23rd.

The question then becomes whether a preliminary finding that Mr. Thomson was sufficiently specific in his October 19th discussion with Mr. Laird provides a basis for finding reason

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135424

to believe that he violated the Act. It is the General Counsel's view that the test set forth above is applicable to communications possessing the degree of specificity reflected by Laird's testimony and reasonable inference; in short, this record supports a preliminary finding that Mr. Thomson's communication on October 19th directly resulted in knowledge on the part of Mr. Laird that the Commission was conducting an investigation with respect to the Sasser campaign. Accordingly, it is recommended that the Commission find reason to believe that Vernon W. Thomson violated §437g(a)(3)(B) of the Act.

B. Application of §437g to Persons Not Officially Employed with the Commission

§437g(a)(3)(B) expressly states that non-Commission individuals have the same confidentiality obligation that Commission employees bear with respect to investigations. On the present state of this record, and given the exigencies attending the submission of this report, I am not at this time prepared to make a recommendation to the Commission as to whether it should seek to apply §437g to persons identified as having participated in the described chain of communication who are not officially employed with the Commission.

C. Referral to the Justice Department for Possible Perjury and Obstruction of Justice Investigation.

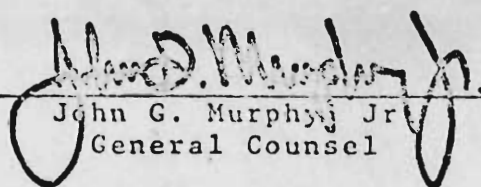
There is some evidence on this record that perjury may have been committed and obstruction of justice attempted in the course of this investigation. However, for the same reason that I noted in subsection B above, I am not at the time prepared to recommend to the Commission that it refer any aspect of this case to the Department of Justice for

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY

79940135425
aspect of this case to the Department of Justice for investigation of these potential charges.

V. Conclusion

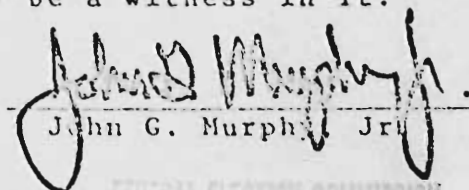
Find reason to believe with respect to Victoria Ann Tigwell and Vernon W. Thomson; prepare appropriate transmittal letters; defer determinations regarding persons outside the Commission who participated in the described chain of communication; defer consideration of whether to refer any aspect of the case to the Attorney General.


John G. Murphy Jr.
General Counsel

December 21, 1976

Addendum

As this report makes clear, Mr. Thomson's testimony of December 20, 1976 is, on a number of points, in direct and unequivocal conflict with the General Counsel's clear recollection of, and a contemporaneous memorandum made with regard to, their meeting at Mr. Thomson's home on Saturday, December 4, 1976. It also conflicts with an account of that meeting related orally by the General Counsel to Mr. Hershman later that same day. The General Counsel is accordingly of the view that the Commission may appropriately request that I relinquish control of this investigation, since I may be a witness in it.


John G. Murphy Jr.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

December 4, 1976

MEMORANDUM TO: The File

FROM: John G. Murphy, Jr. *JGM*

Saturday, December 4, 1976, 5:15 p.m., Intersection of Route 123 and Kirby Road, McLean, Virginia.

I have just spent approximately one hour with Vernon Thomson at his home at 6213 Kellogg Drive, McLean, Virginia. Marilyn Early telephoned me at 9:30 this morning and indicated the Chairman wanted me to call him. I telephoned him and he said that he would like to meet with me sometime this weekend because he was disturbed about our brief conversation prior to the Commission meeting, Thursday, December 2. At that time, accompanied by Mike Hershman, I had said to the Chairman that I was going to request the Commission to subpoena the passenger list of several Northwest Airlines flights from Washington to Milwaukee on October 21, 1976. I said that as a matter of courtesy I wanted to inform him of this imminent request because it seemed to me that there was a chance with the holiday weekend coming up he might have been on one of the flights. He expressed no concern whatsoever at that time and indicated that he normally flew to Wisconsin on Tuesday to attend Board meetings. I told him that I was subpoenaing the plane records because we had tracked the leak back to Melvin Laird who was on one of the airplanes for which I sought records. He expressed no surprise or any other emotion when I mentioned Laird's name.

During this morning's telephone conversation, I agreed to meet with him this afternoon and I went to his home at approximately 4:15 p.m. After some preliminaries with regard to last evening's staff party, he indicated that he had reviewed his deposition and thought there might be an omission of importance.

He said that on Tuesday, October 19, 1976, he had gone to a reception of Wisconsin people for an old friend of his, Bob Spitzer, at the University Club and during the course of his brief stay had run into Mel Laird. He said Laird came up to him with other people standing around and berated the Commission for not acting expeditiously on complaints. He said that he had felt somewhat provoked

79040135426

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Mr (298) 76

December 9, 1976

James A. Abbott
Vice President-Law
Northwest Airlines, Inc.
Minneapolis-St. Paul
International Airport
St Paul, Minnesota 55111

Dear Mr. Abbott:

I am in receipt of the information requested by the Commission by subpoena with regard to Northwest flights 379 and 375 from Washington--Milwaukee on October 21, 1976. I wish to express my appreciation for your expedited cooperation. Please be assured that the information supplied will be very closely handled.

Sincerely yours,

John C. Murphy, Jr.
General Counsel

JGM:ek

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135428



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

AUTHORIZATION TO ADMINISTER OATHS

Pursuant to 2 U.S.C. §437d(a)(2), the Federal Election Commission hereby authorizes and directs its General Counsel, John G. Murphy, Jr., to administer oaths or affirmations, in behalf of the Commission, for the purpose of taking testimony in Commission Compliance Action MUR 298 (76).

Date: 11-10-76

Vernon W. Thomson
Chairman for the
Federal Election Commission

Marjorie W. Emmons
Secretary to the Federal Election Commission

SEAL



FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135429

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

SUBPOENA

TO: Robert J. Perkins
301 Gay Street
Nashville, Tennessee 37201

At the instance of the Federal Election Commission pursuant to §437d of Title 2 of the United States Code, you are hereby required to appear before authorized representatives of the Federal Election Commission, on the 19th day of November, 1976, at 2:00 p.m., at the Hyatt Regency Hotel, 623 Union Street, Nashville, Tennessee, for the purpose of giving testimony, on oral examination, in reference to a possible breach of §437g(a)(3) of Title 2 of the United States Code in connection with Commission compliance action number MUR 216 relating to the Tennessee Senatorial campaign of 1976.

WHEREAS, the Chairman of said Federal Election Commission has hereunto set his hand at Washington, D.C., this 10th day of November, 1976.


VERNON W. THOMSON
CHAIRMAN

SEAL


Marjorie W. Emmons
Secretary to the Federal Election Commission

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

790010135430

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)

MUR 216 (76)

PERSONS UNKNOWN)

NOTICE OF DEPOSITION

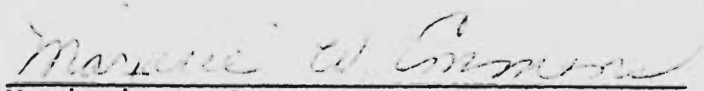
TO: Robert J. Perkins
301 Gay Street
Nashville, Tennessee 37202

PLEASE TAKE NOTICE that pursuant to §437d(a)(4) of Title 2 of the United States Code that authorized representatives of the Federal Election Commission will take the testimony, on oral examination, of Robert J. Perkins, on the 19th day of November, 1976, at 2:00 p.m., at the Hyatt Regency Hotel, 623 Union Street, Nashville, Tennessee.

Dated: November 10, 1976
Washington, D. C.


VERNON W. THOMSON
CHAIRMAN

SEAL


Marjorie W. Emmons
Secretary to the Federal Election Commission

OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135451

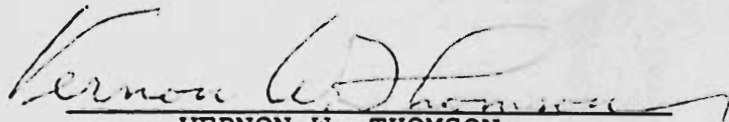
UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

SUBPOENA

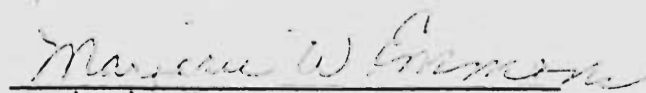
TO: Beth Perkins
301 Gay Street
Nashville, Tennessee 37201

At the instance of the Federal Election Commission pursuant to §437d of Title 2 of the United States Code, you are hereby required to appear before authorized representatives of the Federal Election Commission, on the 19th day of November, 1976, at 3:00 p.m., at the Hyatt Regency Hotel, 623 Union Street, Nashville, Tennessee, for the purpose of giving testimony, on oral examination, in reference to a possible breach of §437g(a)(3) of Title 2 of the United States Code in connection with Commission compliance action number MUR 216 relating to the Tennessee Senatorial campaign of 1976.

WHEREAS, the Chairman of said Federal Election Commission has hereunto set his hand at Washington, D. C., this 10th day of November, 1976.


VERNON W. THOMSON
CHAIRMAN

SEAL


Marjorie W. Emmons
Secretary to the Federal Election Commission

OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

IN THE MATTER OF
PERSONS UNKNOWN

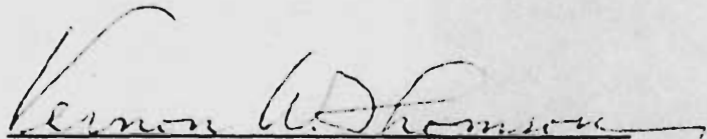
)
)
)

MUR 216 (76)
NOTICE OF DEPOSITION

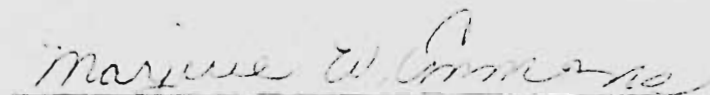
TO: Beth Perkins
301 Gay Street
Nashville, Tennessee 37202

PLEASE TAKE NOTICE that pursuant to §437d(a)(4) of Title 2 of the United States Code that authorized representatives of the Federal Election Commission will take the testimony, on oral examination, of Beth Perkins, on the 19th day of November, 1976, at 3:00 p.m., at the Hyatt Regency Hotel, 623 Union Street, Nashville, Tennessee.

Dated: November 10, 1976
Washington, D. C.


VERNON W. THOMSON
CHAIRMAN

SEAL


Marjorie W. Emmons
Secretary to the Federal Election Commission

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

7904013543

November 1, 1976

MUR 298

Mr. Michael Paulus
Ace Federal
415 2nd Street, N. W.
Washington, D. C. 20002

Dear Mr. Paulus:

7 9 0 4 0 1 3 5 4 3 4

With this letter Miss Deldre Edwards of your Company is turning over six pads of depositions which I have taken in connection with an extremely sensitive compliance matter pending before the Federal Election Commission. As I have already informed Miss Edwards, any person who becomes aware of a compliance proceeding before the Federal Election Commission is placed under very strong restrictions with respect to maintaining such information on a confidential basis. Under 2 U.S.C. §437g(a)(3)(B), investigations "shall not be made public by the Commission or by any person without the written consent of . . . the person with respect to whom such investigation is made." (Emphasis added.) Under 2 U.S.C. §437g(c) "any member of the Commission, any employee of the Commission, or any other person who violates the provisions of subsection (a)(3)(B) shall be fined not more than \$2,000. Any such member, employee or other person who knowingly and willfully violates the provisions of subsection (a)(3)(B) shall be fined not more than \$5,000." (Emphasis added.)

It is accordingly my recommendation that you restrict the number of individuals who have access to these depositions and that they be individually informed of the confidentiality requirement of the statute I have cited.

To further preserve security with regard to this matter, I wish to have the pads returned to me along with the completed depositions. Inasmuch as this probably involves a departure from your usual procedures, I will be happy to submit a letter for your files explaining

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

the reason why we do not wish any records of these depositions maintained in any form whatsoever at your offices. You may be of the view that this letter will serve that purpose.

I wish to note my appreciation for the services of Miss Edwards, who has assisted very effectively in this process. I trust that her services will remain available hereafter as this matter goes forward. Your cooperation is very much appreciated.

Sincerely yours,

Signed: John G. Murphy, Jr.

John G. Murphy, Jr.
General Counsel

JGMurphy:jl:11/1/76

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135435

DATE OF TRANSMITTAL: _____

NO. 298 (76)

TIME OF TRANSMITTAL: 9:00 a.m. _____

REC'D: 10/26/76 _____

FEDERAL ELECTION COMMISSION
Washington, D. C.

Complainant's Name: Internally generated _____

Respondent's Name: Persons unknown _____

Relevant Statute: 2 U.S.C. §437g(a)(3)(B); 2 U.S.C. 437g(c) _____

Internal Reports Checked: None _____

Federal Agencies Checked: None _____

SUMMARY OF ALLEGATION

Confidential information concerning the Commission's decision to issue subpoenas in MUR 216 (76) appeared in the Nashville Banner on Monday, October 25, 1976, in an article written by Tom Ingram, Chief Political Writer for the newspaper.

PRELIMINARY LEGAL ANALYSIS

Information in article gives reason to believe that a person or persons unknown violated 2 U.S.C. §437g(a)(3). Investigation of this MUR should focus on person/persons who have had contact with the Commission regarding this matter.

RECOMMENDATION

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Find reason to believe that violation of §437g(a)(3) has been committed.

Send attached letter.

Date of Next Commission Review: _____



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Robert Perkins
Citizens for Senator Brock
Committee
Box 1976
Nashville, Tennessee 37202

Re: MUR 298 (76)

Dear Mr. Perkins:

This letter is to inform you that the Federal Election Commission has reason to believe that you have knowledge of events surrounding the release of confidential information contained in the attached newspaper article, which is prohibited by 2 U.S.C. §437g(a)(3).

Enclosed you will find a notice of deposition issued pursuant to 2 U.S.C. §437d(a)(4).

Should you have any questions concerning this matter, the attorney assigned to this case is David R. Spiegel (telephone no. 202/382-4055).

Sincerely yours,

John G. Murphy, Jr.
General Counsel

Enclosure



FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135437

UNITED STATES OF AMERICA
FEDERAL ELECTION COMMISSION

IN THE MATTER OF)
) MUR 216 (76)
PERSONS UNKNOWN)
) NOTICE OF DEPOSITION

TO: Robert Perkins
Citizens for Senator Brock
Committee
Box 1976
Nashville, Tennessee 37202

PLEASE TAKE NOTICE that pursuant to §437d(a)(4) of
Title 2 of the United States Code that authorized repre-
sentatives of the Federal Election Commission will take
the testimony, on oral examination, of Robert Perkins, on
the 8th day of November, 1976, at 2:00 p.m., at _____
_____.

DATED: Washington, D. C.
October 28, 1976

VERNON THOMSON
Chairman
Federal Election Commission

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135438

ARTICLE FROM NASHVILLE BANNER, MONDAY, OCTOBER 25, 1976 (P.M.)

Front Page and Continued on page 10:

"SASSER LOANED PLANE:FILES Subpoenaed" by Tom Ingram, Chief Political Writer.

The Federal Election Commission has subpoenaed records from Democratic candidate Jim Sasser related to bank loans he received and his use of a corporate airplane in the primary.

FEC spokesman David Fiske said compliance investigations are secret and would not confirm or deny that the records have been demanded. "I can't respond at all," Fiske said.

Sasser campaign treasurer Gary Blackburn acknowledged that the FEC "officially requested" additional records in a registered mail communication to him last week.

In Memphis, Sasser seemed unaware of the FEC action and closeted himself to confer with staff members before responding to reporters questions about the matter, then said he was "not surprised that the Republican-dominated FEC would take such action on a complaint that was filed in July."

Persons close to the investigation said the Commission voted 6-0 last week to see additional information from the Sasser campaign on the loan and airplane questions.

Such investigations normally are not launched until the FEC's General Counsel recommends them and "at least four" FEC Commissioners agree there is "reason to believe" the law may have been violated.

The questions were put to the FEC in the form of a complaint during the primary by one of Sasser's opponents, then, Nashville businessman and automobile dealer Harry Saddler.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Saddler accused Sasser of not fully reporting expenses or trips taken in an aircraft owned by Aubrey Gregory, a political ally of Metro Mayor Richard Fulton, and of obtaining unsecured bank loans.

Continuation on P. 10:

FEC regulations require candidates to reimburse corporations the equivalent of first-class airfare or the usual charter rate for use of their aircraft and prohibit loans which do not comply with normal banking procedures.

Sasser and spokesmen, including Blackburn today, have repeatedly defended use of the airplane and a \$125,000 loan from the Tracy City National Bank as legal and proper.

Sasser said today \$80,000 of the Tracy City loan, which some speculated was obtained with the assistance of Oak Ridge banker and Sasser supporter Jake Butcher, have been repaid "leaving a balance due of less than \$40,000."

"We have previously given the FEC in July all records of the campaign pertaining to bank loans or use of airplanes," Sasser added. "We filed a full disclosure of all our campaign activities as well as of my personal finances."

Blackburn said, "these investigations are supposed to be secret, I don't know how much I'm supposed to discuss. I don't mind discussing it. I just don't know how much I'm supposed to discuss."

Blackburn described the FEC inquiry as "routine." "If we filed a complaint today on Mr. Brock about anything, the FEC would be obligated to ask him to furnish records too."

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Blackburn was reluctant to accept description of the FEC's request as a subpoena, but conceded the FEC "probably would enforce subpoena power against us if we resisted."

"What they're doing now is requesting specific things to elucidate on things we've already sent them," Blackburn added. "It's all above board. We're going to voluntarily give them everything."

Blackburn said he expects a representative of the Sasser campaign to deliver the information to FEC officials in Washington Tuesday. "It won't be a great volume," he said, "because we have already sent them most of what they have requested."

##

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135441



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 27, 1976

MEMORANDUM TO: Jack Murphy/William Oldaker
THRU: Joan D. Aikens *JDA*
FROM: Joyce E. Thomann
SUBJECT: Amplification of Our Discussion on October 26, 1976

7 9 0 4 0 1 3 5 4 4 2

Yesterday, I called my Mother in Denver to ask if she could recall the two young ladies whom I mentioned to you. (My reason for doing so was that her recollection, or lack thereof would give me a more finite time for the discussion which I related to you inasmuch as my Mother arrived in the Commission's Public Records office at exactly 3:31 p.m. according to the clock above the door.)

She did, indeed, remember the two girls and I asked her if she recalled anything they said. She did recall that they were talking "about that compliance thing." For some reason this has triggered my mind to recall something that I could not clearly bring back yesterday - and which I indicated to the two of you was fuzzy in my recollection other than to be able to tell you that I believed the time-frame of the compliance matter under discussion by the two young ladies was quite recent. I made the statement to the two of you that I thought it might have been a recently filed complaint. What I was trying to recall was the comment of the young lady (the one standing) who had entered the room.

When the first young lady opened the conversation with, "Say, have you heard about this compliance thing," and then went on to detail the compliance action for the edification of the young lady who had recently entered the room (while I explained to my Mother what a "compliance thing" was), the young lady who had entered the room said, "Oh yeah, that's the thing they've been working on." The young lady sitting down asked "Who?" Our young lady standing up replied, "Oh, you know, the Commissioners." It was my distinct impression that the young lady who had entered the room was indicating that the Commissioners who were at that moment in meeting were or had recently been discussing the matter which had just been detailed for her - this is why my recollection was of a recent matter. Their discussion continued.



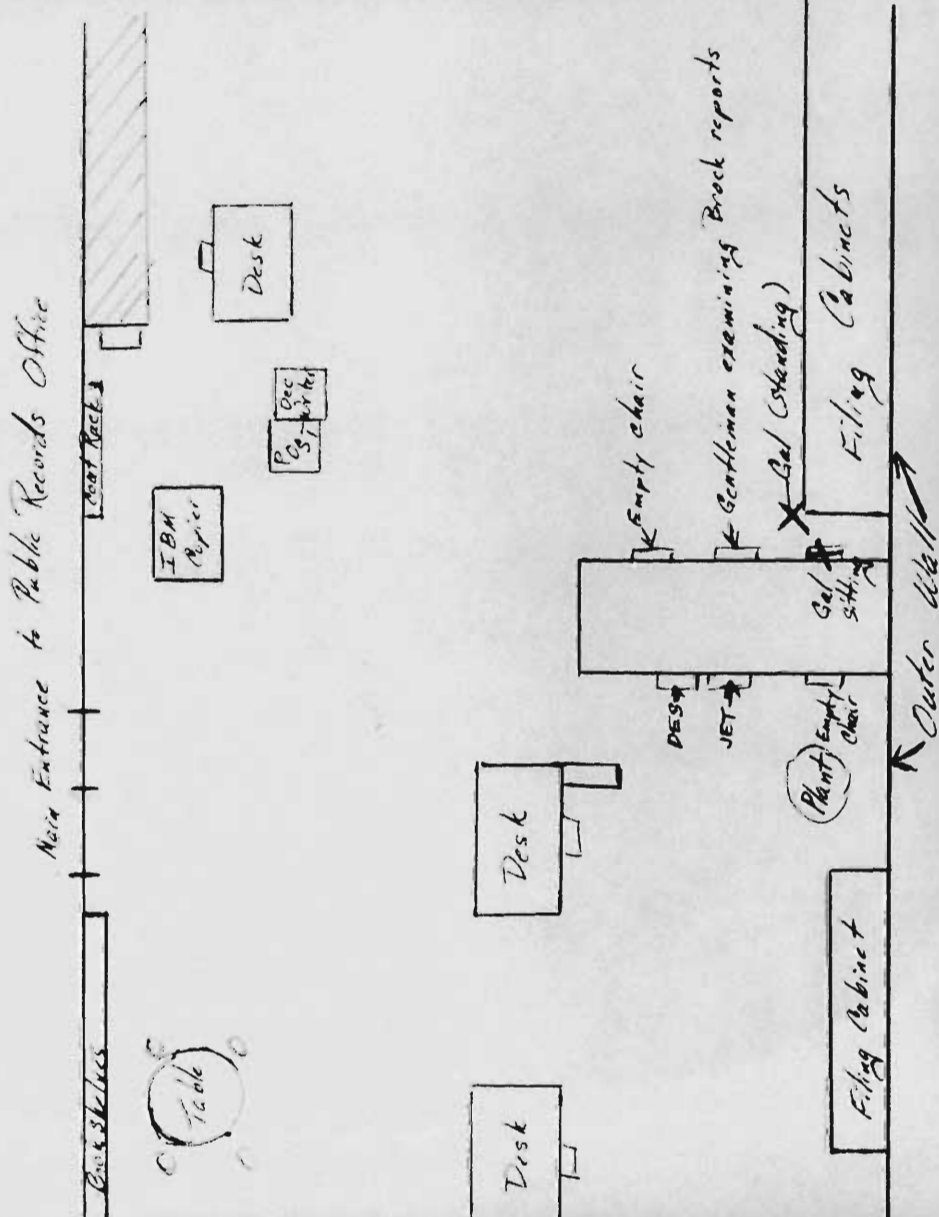
FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Memorandum To: Jack Murphy/William Oldaker
October 27, 1976
Page Two

Now, gentlemen, you have the sum total of the entire conversation which I clearly heard. The remainder of it was obscured by my own voice trying to explain quietly to my Mother what the newly heard term "compliance action" meant, and by the fact that in order to converse - because of the physical situation present at the time - the young lady sitting down had to turn at an acute side angle in her chair to look at and talk to the young lady standing (and sometimes leaning) against the file cabinets. The young lady who had been and remained seated had turned so she was almost directly facing the left ear of the fellow who had been examining and taking notes on the Brock reports.

Below is a diagram (albeit crude) of the physical location which I pointed out to the two of you yesterday.

:jet



October 26, 1976

MEMORANDUM TO: Jack Murphy
FROM: Dan Swillinger *DS.*
SUBJECT: Meeting at Federal Aviation Administration

I met on Thursday, October 21, 1976 at 4:00 p.m. with Mr. Neil Eisner, a section chief in the Chief Counsel's office of the FAA, and with three of his associates, regarding the apparent conflict between our regulations (in particular §114.9(e)) and FAA statutes and regulations regarding certificates granted by the FAA to aircraft owners.

79040135444
We are aware of two instances in which aircraft without the appropriate FAA certificate have received reimbursement from candidates for use of the private aircraft. In one case, the Senate candidate from Tennessee, James Sasser, has apparently contracted with a corporation for the use of its private aircraft for campaign travel. In the second case, Governor Dolph Briscoe of Texas transported Mrs. Jimmy Carter, Carter staff and Secret Service agents, to three different cities in Texas. In the Sasser case, the campaign has been paying the costs of this travel, according to George Barrett, Sasser's lawyer. In the Briscoe case, the Carter Campaign has at least attempted to reimburse the Governor for the use of his private plane. It is not clear whether that reimbursement has been accepted, or Briscoe is holding it until this conflict is resolved.

Generally, aircraft must receive an FAA certificate to engage in carrying passengers or cargo for "compensation and hire." This would fall under either §135 or §121 of the FAA regulations. As far as the FAA representatives know, neither the aircraft involved in the two situations have the certificate. Therefore, they are in violation of FAA regulations. Mr. Eisner informed me that whenever the FAA is informed of a violation, it must take appropriate action. The exemption procedure which had been mentioned to us in an earlier phone conversation cannot be used retroactively. The minimum action the FAA may take is a "letter of warning" or "letter of correction."

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Mr. Eisner indicated that that is what they intend to do in the Briscoe situation. As far as the corporate aircraft in Tennessee, it is my impression that it is regarded as a far more serious violation since it is a continuing activity in which the corporation should not have engaged. What action will be taken in that situation was not discussed. In addition, the Chief Counsel's office will circulate an advisory to the regional offices and also arrange a conference call to explain this current situation and the recommended FAA procedures for dealing with it should other cases arise.

I explained that our statute, particularly §441b and §9001 et seq. respectively preclude corporations from making contributions and preclude candidates receiving general election funding from accepting private contributions. I suggested that we would amend our proposed regulations regarding the reimbursement procedure set forth in §114.9(e), and the section regarding the inability to take private contributions in Part 140, to make it clear that reimbursement for use of corporate aircraft and reimbursement for use of any private aircraft by Presidential candidates can be carried out only if the carrier is in compliance with FAA regulations.

We also discussed the possibility of the FAA proposing amendments to its regulations to permit some limited activity on behalf of candidates during election years. Mr. Eisner suggested that the best way to proceed, if we wish to pursue this, would be for our General Counsel to write the FAA Chief Counsel requesting a meeting to discuss this possibility. If the FAA regulations are not amended, it seems to me that they effectively preclude the use of corporate aircraft by candidates, the use of any private aircraft by Presidential candidates accepting general election public financing, and the use by any candidate of private aircraft in excess of \$1,000 worth of costs, the maximum which an individual can contribute to a candidate.

We ought to discuss our next move fairly quickly. In the meantime, Mr. Eisner suggested that if we receive press calls regarding the FAA regulations, we refer them

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79010135445

to the Public Affairs Office at the FAA. He further suggested that any calls from lawyers regarding the interpretation of the FAA regulations be referred to him at 426-3235.

cc: David Spiegel
Dave Fiske

79040135446

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF THE CLERK

OCTOBER 19, 1976

file

PRESS MEMO: TO JACK MURPHY

CC: SPIEGEL & SWILLINGER

FROM DAVE FISKE

RE: SASSER AIRPLANE SITUATION

I received a call from the Nashville Banner reporter who had done the original story on Sasser's campaign not paying the required commercial reimbursement rate for use of a corporate plane.

He wanted to confirm what Sasser's lawyer, George Barrett, had told the press: namely that the FEC had confirmed there were inconsistencies with the FAA regulations, and that he (Barrett for Sasser) had asked for a ruling from the FEC on the use of the airplane.

I confirmed the FAA problem, and said general counsel offices of both agencies were working on it. I also said (based on Dan's memo) that I knew Barrett was writing us about the FAA problem, but that I couldn't speak to whether he would be raising any/^{other} questions in his request. I said asking for opinions was a common procedure, and part of the FEC's policy of giving as much advance advice to help persons comply as possible.

The reporter then asked whether we were doing anything about the plane situation in compliance proceedings. I said I could not answer yes or no and could not discuss compliance at all.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79010135447

File
Discussed problem at 10 a.m. Meeting with
Vanderg. T., Sullinger, & Murphy on 10/19.

October 19, 1976

*Decided not
to send up.*

to JSH. W. H. M.

*information that
Sullinger had*

*agreed to have all
further contact with
the matter.*

MEMORANDUM TO: Jack Murphy
THROUGH: Bill Oldaker
FROM: David Spiegel *DS*
SUBJECT: Fiske Memo of October 15, 1976 (MUR 216)

7 2 0 4 0 1 3 5 4 4 8
The question raised in the attached memorandum of David Fiske dated October 15, 1976, clearly involves the subject matter of MUR 216. This is a complaint filed against James R. Sasser in which one of the two principal claims is that he failed to report substantial portions of his campaign travel. On September 21, 1976, the Commission found reason to believe that violations of the Federal Election Campaign Act had been committed. The Compliance Section is presently in the process of draft subpoenas with regard to this matter.

Both George Barrett (Sasser's lawyer in the MUR) and Gary Blackburn (Sasser's Treasurer) are aware of this MUR. Although I am perhaps overly distrustful of human nature, it would not appear to be unreasonable in this instance to infer that the purpose of the calls was to bolster an argument that Mr. Sasser, in the reporting of his plane travel, was caught between FAA regulations and FEC's reporting requirements. In this connection, it should be noted that Mr. Barrett or one of his associates, had earlier called the Information Section of the Commission re one of the other issues in this MUR and that Mr. Barrett is not citing certain comments allegedly made by the Information Section as a defense to part of the Commission's action in this MUR.

In view of the factual circumstances involved herein, I think that all further contacts with Mr. Barrett and Mr. Blackburn and with any other persons involved with this MUR should be referred immediately to the Compliance Section.

Although the Fiske memo does not mention MUR 216, I believe that David was probably aware of the existence of the MUR at the time he wrote the memo. The third call from the National Tennessean was initially referred to me. Upon learning of the subject matter of the call, I referred it to David Fiske. Before transferring the call, I told David that it appeared to me that the call had questions which related to a pending MUR.

Attachment

FEDERAL ELECTION COMMISSION
OFFICE OF GENERAL COUNSEL
OFFICIAL FILE COPY

File - 216

MEMORANDUM TO: Jack Murphy cc: David Speigel and Fiske

FROM: *Speigel*

SUBJECT: Phone conversation on October 15, 1976
with George Barrett

Mr. Barrett, a lawyer in Nashville and counsel for James Sasser, candidate for the U.S. Senate, called me at the direction of David Fiske regarding the conflict between the Commission's regulations regarding the requirement for reimbursement by a candidate when corporate aircraft is used for campaign transportation, and a Federal Aviation Administration regulation (\$135) precluding licensees with private aircraft from carrying passengers or material for compensation. I informed Mr. Barrett that we have been in touch with the FAA, and hope to develop a temporary solution as quickly as possible for this question. He asked how the Sasser campaign should treat its activity right now. I told him that I had no firm suggestions since we had not yet resolved the question, except that he certainly should continue to record and report any transportation on corporate aircraft and the reimbursement therefor. Apparently, the Sasser campaign has entered into a long term contract with the corporation for its privately owned aircraft to be used as a campaign plane by Sasser.

He asked whether he could send me a letter confirming our conversation, and indicating that I had agreed

OFFICIAL FILE COPY
OFFICE OF CLINICAL COUNSEL

to be back in touch with him as quickly as possible.

I, of course, agreed to that procedure, and he indicated
4 he would dictate and mail such a letter today (Oct. 15).

5 Since there is a compliance action involving
6 Sasser and his air plane travel, both David Fiske and
7 I have attempted to be as circumspect as possible in
8 this area. Mr. Barrett indicated both to David and I
9 that in a general way he had "some other business"
10 with the General Counsel's office, which we assume
11 was a vage reference to the compl^Aiance activity.
12
13
14
15
16
17
18
19
20
21
22
23
24
25

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

OCTOBER 15, 1966

MO: TO DAN SWILLINGER
FROM: DAVID FISKE *DF*

CC: MURPHY, POTTER, TIFFT, SPIEGEL

We may be getting an issue brought before us as to whether FEC and FAA regs are inconsistent.

The issue is whether our corporate plane reimbursement standard of regular commercial rate (either first class regular commercial service or charter rate between cities without commercial airlines - 114.9(e)(1)) is inconsistent with FAA license requirements for corporate planes that bar receiving any profits above costs of operating. (ie: the profit margin included in a commercial rate may not be charged by the corporation).

The issue has arisen out of a series of Nashville newspaper stories.

Background

Wed. night (10/13) I received a call from a Nashville Banner (afternoon paper) reporter asking generally about corporate contributions, and reimbursement for use of a corporate airplane. I recited our general "normal business rate" policy, and referred to 114.9(e)(1). He had a copy of the regs. He asked about a specific rate, and I said I could not discuss any factual application, but could only recite the general FEC standards in the regs.

As a result of a Thursday pm story, I received 3 calls on Thursday 10/15:

(1) from the Jim Sasser (Congressional candidate) treasurer, Gary Blackburn (615-256-9999) (who apparently was a candidate involved in the corporate plane use the Banner was writing about,) who wanted to know what section of the regs I had referred to, and asked for a copy of them. I mailed them Thursday. In our conversation I only related to him the general language I had told the reporter.

(2) a lawyer, presumably connected with the Sasser campaign, George Barrett, (615-244-2202), who also asked about the regs, but who also said the pilot was claiming the corporation was barred from charging the commercial rate because of the FAA license requirement against receiving any profits. He said ~~for~~ all the costs of the plane were being reimbursed. I made no comment on the latter, but said that if there was an inconsistency with the FAA requirements, we would certainly want to know about that, and would look at it if the situation was brought to our attention. He said he would get more information, and would probably get back to us.

(3) A reporter from the Nashville Tennessean (the morning paper) ^{called} who had apparently talked to Barrett, ~~and~~ who had recited what I said about the FEC and FAA matter. I repeated that we would always, as a matter of general policy, take a look at any inconsistency between our regs and another agency. I cited as an example the ad disclaimer issue involving FEC and FCC regs. ~~as an example~~. I said we were not aware of any inconsistency with FAA requirements, but would, if facts were presented, take a look. I said it would have to be a matter, for any change of policy, to go before the full Commission for consideration.

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

As a result of the Friday morning paper story, stating there might be an inconsistency, the evening paper reporter called me at home this morning. I told him exactly the same thing, stressing that I was only talking general policy, and in no way saying what the Commission would do or in any way getting into the Sasser situation.

Because of these articles, I am quite certain that the Sasser campaign will in some way bring this issue to us.

72040135452

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 26, 1976

MEMORANDUM TO: William Oldaker,
Assistant General Counsel

FROM: Commissioner Joan D. Aikens *JDA*

SUBJECT: MUR Action

I should like for this memorandum to be made a part of the files on the following matter.

At 5:00 p.m. on Saturday, October 23, 1976, I received a telephone call from Bob Perkins of the Brock Committee in Tennessee at my home. He asked if it was true that the Commission had voted in open session to subpoena Sasser's records. I told him, "No," and advised him I could not discuss it with him and that he should call Dave Fiske on Monday if he wanted to know about the matter.

Mr. Perkins replied that Fiske would only say "yes" if there was a compliance action and "no" if there wasn't. I further advised Mr. Perkins that was also all I could say regarding the matter.

JDA:jet

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL



79040135453



FEDERAL ELECTION COMMISSION

1325 K STREET N.W.
WASHINGTON, D.C. 20463

October 26, 1976

MEMORANDUM TO: Joan D. Aikens
FROM: Joyce E. Thomann *J. Thomann*
SUBJECT: Confidentiality of Compliance Actions

Thursday of last week (October 21, 1976 to be specific) I had occasion to be in the Office of Public Records for approximately 2½ hours from 2:00 p.m. until 4:30 p.m. I sat at the first table across from the entrance door (the long table nearest the reception desks). Gordon Strauss with RNC was sitting next to me and a gentleman whom I did not know was sitting directly across the table from me. During the entire time I was in Public Records, the gentleman across the table from me was reviewing reports filed on behalf of Senator Bill Brock. At one period when he left the table to go to the files, I asked Gordon if he knew the man. Gordon replied that he did not.

Gordon left the Commission o/a 3:00 p.m.; my Mother arrived at the Commission to meet me at 3:30 p.m. Between the time when Gordon left and my Mother's arrival, a young lady, whom I did not know sat down next to the gentleman reviewing the Brock reports. (She sat to his left with her back directly to the row of filing cabinets which begin directly behind the chair she chose.)

Another young lady walked into the Public Records Office and greeted the young lady sitting at the table where I was sitting. Whereupon the young lady sitting next to the gentleman reviewing the Brock reports said, "Say, have you heard about this latest compliance action?" She then proceeded to detail at some length (for a period in excess of 5 minutes) a compliance action which I presumed the young lady sitting down was working on. From the very little of the conversation which I was able to hear, I am certain that both the young ladies are employees of the Federal Election Commission. Although their conversation was not sufficiently audible for me to hear beyond what I will call the "opening salutation," (because of the physical location of the filing cabinets, the place which the young lady sitting down had chosen and the fact that in order to discuss the compliance action, the young lady who had entered the room had to stand next to the filing



FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

79040135454

Memorandum to Joan D. Aikens
October 26, 1976
Page Two

cabinets and directly to the left shoulder of the gentleman sitting across the table from me) it would have been IMPOSSIBLE for the gentleman sitting across from me not to have heard EVERY DETAIL of the compliance action under discussion.

Because of the diverse "clientele" which our Public Records Office services - everyone from top investigative reporters to union and campaign/national committee lawyers, right down to volunteer political researchers, it is ABSOLUTELY IMPERATIVE that FEC personnel NOT DISCUSS COMPLIANCE ACTIONS in that arena. If compliance actions are to be discussed, the small room which Kent Cooper has set aside for Commission personnel should be used. The best option would be that NO compliance actions should be discussed outside of an area where ALL the individuals within the area are known to those discussing the action. Inasmuch as I did not know our two young lady Commission employees, the chances are better than average that they did not know me, and it is certain that they did not know my Mother or the man sitting across the table from me.

I would hope this would be the subject of a "gentle reminder" from the Office of the General Counsel.

:JET

79040135455

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Memorandum

To: Bill Oldaker

From: Bill Loughrey

Re: Sasser Complaint and Subpoena

Date: October 24, 1976

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL

Since the Sasser complaint and subpoena has apparently become a matter of public record in violation of 2 U.S.C. 437g(a)(3), I wish to bring the following to your attention.

During congressional consideration of the 1976 amendments, I talked with Bob Perkins of Sen. Brock's office on a regular basis. Toward the end of the legislative process, this contact occurred on almost a daily basis. After passage of the 1976 Amendments, I had frequent discussions with Mr. Perkins on interpretations of the law and also discussed his possible interest in the congressional liaison position at the Commission. During the summer, he took a position with Sen. Brock's campaign (I believe as Executive Director of the Tennessee Republican Party). Since that time, I have talked with him once or twice a week. During the or early September month of August, he discussed with me our compliance procedures and the Commission's interpretation of the term "in the ordinary course of business". He also mentioned at that time that a banker in the state of Tennessee would file a complaint against a federal candidate for a bank loan which allegedly was not in the ordinary course of business. Since Mr. Perkins referred to this matter in the third person, I assumed that the complaint was to be filed against a Democratic House candidate in Tennessee. Eventually, it turned out that the complaint was filed against Sen. Brock's opponent, Mr. Sasser. Since that time, I have continued to talk with Mr. Perkins on the average of once a week. During this period, I have discussed only various interpretations of the law with him and have discussed no compliance matters. Last Friday night (October 22) I received an emergency phone call at my home from Mr. Perkins. At the time I was not home and since I do not have his phone

number at home (only his headquarters number), I was unable to contact him. On Sunday, I received what was alleged to be his home phone number from Vicki Tigwell. I attempted to call him at this number, but found out that I had been given the wrong number. (Vicki Tigwell later acknowledged that she in fact had given me the wrong number). I still have not returned Mr. Perkins phone call. This so-called emergency phone call was the first time that Mr. Perkins had attempted to contact me at home. Previously, he had always contacted me at my office number.

79040135457

FEDERAL ELECTION COMMISSION
OFFICIAL FILE COPY
OFFICE OF GENERAL COUNSEL



FEDERAL ELECTION COMMISSION

1125 K STREET NW
WASHINGTON, D.C. 20461

THIS IS THE BEGINNING OF MUR 1' 298

Date Filmed 6/29/79 Camera No. --- 2

Cameraman LPC

79040135458