



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4393

DATE FILMED 4-25-97 CAMERA NO. 1

CAMERAMAN JMW

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06C

Don PAYNE FOR CONGRESS

June 6, 1996

Ms. Lee Ann Elliott
Chairperson
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT
JUN 7 12 50 PM '96

Dear Commissioner Elliott:

In my capacity as campaign manager for Representative Donald M. Payne (New Jersey-10), it was brought to my attention that his opponent in the June 4, 1996 primary election (Cecil J. Banks, Esq.) had never filed any reports or a Statement of Candidacy.

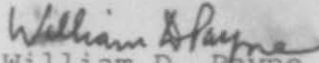
Mr. Banks commissioned a poll in early March, which was conducted by the firm of Cooper and Secrest. Then in April, he held a press conference to announce that he was challenging Rep. Payne's reelection to congress. During the period of the past four (4) months, Cecil Banks purchased numerous bus signs, bought air time on the radio to run his ads, printed and mailed at least five (5) different brochures, and made many other expenditures necessary to run the kind of campaign that he waged.

It is my understanding, according to the rules, that a person becomes a candidate, when he or she "raises or spends" five thousand (\$5,000.00) dollars. Furthermore, that once this threshold is met, the person has ten (10) days to file a report and fifteen (15) days to file a statement of candidacy. To date, Mr. Banks has done neither. Also, there was no disclosure regarding his committee, his treasurer, or who paid for the materials which he distributed.

I am bringing this matter to your attention as one who is interested in fairness in the election process and one who respects the law and doesn't feel that it should be taken lightly.

Please advise me of what action you decide to take in this matter. If you have any questions or need further information, do not hesitate to call me at (201) 643-4422.

Sincerely,


William D. Payne
Campaign Manager

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JUN 7 1 06 PM '96



FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 11, 1996

William D. Payne
Campaign Manager
Don Payne for Congress
P.O. Box 2406
Newark, NJ 07114

Dear Mr. Payne:

This is to acknowledge receipt on June 7, 1996, of your letter dated June 6, 1996. The Federal Election Campaign Act of 1971, as amended ("the Act") and Commission Regulations require that the contents of a complaint meet certain specific requirements. One of these requirements is that a complaint be sworn to and signed in the presence of a notary public and notarized. Your letter did not contain a notarization on your signature and was not properly sworn to.

In order to file a legally sufficient complaint, you must swear before a notary that the contents of your complaint are true to the best of your knowledge and the notary must represent as part of the jurat that such swearing occurred. The preferred form is "Subscribed and sworn to before me on this ____ day of ____, 19__." A statement by the notary that the complaint was sworn to and subscribed before him/her also will be sufficient. We regret the inconvenience that these requirements may cause you, but we are not statutorily empowered to proceed with the handling of a compliance action unless all the statutory requirements are fulfilled. See 2 U.S.C. § 437g.

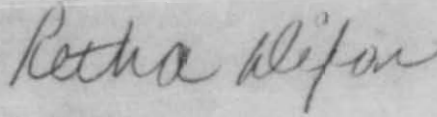
Enclosed is a Commission brochure entitled "Filing a Complaint." I hope this material will be helpful to you should you wish to file a legally sufficient complaint with the Commission.

Please note that this matter will remain confidential for a 15 day period to allow you to correct the defects in your complaint. If the complaint is corrected and refiled within the 15 day period, the respondents will be so informed and provided a copy of the corrected complaint. The respondents will then have an additional 15 days to respond to the complaint on the merits. If the complaint is not corrected, the file will be closed and no additional notification will be provided to the respondents.

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If you have any questions concerning this matter, please contact me at (202) 219-3410.

Sincerely,



Retha Dixon
Docket Chief

Enclosure

cc: Cecil Banks

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RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 25 11 56 AM '96

Don **PAYNE** FOR CONGRESS

June 18, 1996

MUR 4393

Ms. Lee Ann Elliott, Chairperson
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Dear Commissioner Elliott:

In my capacity as campaign manager for Representative Donald M. Payne (New Jersey-10), it was brought to my attention that his opponent in the June 4, 1996 primary election (Cecil J. Banks, Esq.) had never filed any reports or a Statement of Candidacy.

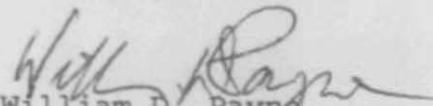
Mr. Banks commissioned a poll in early March, which was conducted by the firm of Cooper and Secrest. Then in April, he held a press conference to announce that he was challenging Rep. Payne's election to Congress. During the period of the past four (4) months, Cecil Banks purchased numerous bus signs, bought air time on the radio to run his ads, printed and mailed at least five (5) different brochures, and made many other expenditures necessary to run the kind of campaign that he waged.

It is my understanding, according to the rules, that a person becomes a candidate, when he or she "raises or spends" five thousand dollars (\$5,000.00). Furthermore, that once this threshold is met, the person has ten (10) days to file a report and fifteen (15) days to file a Statement of Candidacy. As of the date of the election, Mr. Banks had done neither. Also, there was no disclosure regarding his committee, his treasurer, or who paid for the materials which he distributed.

I am bringing this matter to your attention as one who is interested in fairness in the election process and one who respects the law and doesn't feel that it should be taken lightly.

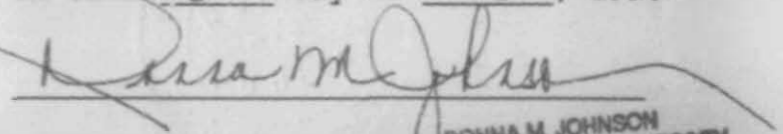
Please advise me of what action you decide to take in this matter. If you have any questions or need further information, do not hesitate to call me at (201) 643-4422.

Sincerely,


William D. Payne
Campaign Manager

Subscribed and sworn to before me

on this 18th day of JUNE, 1996


DONNA M. JOHNSON
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires June 13, 2000

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FEDERAL ELECTION COMMISSION

Washington, DC 20463

June 28, 1996

William D. Payne, Campaign Manager
Don Payne for Congress
P.O. Box 2406
Newark, NJ 07114

Cecil J.

231 1116

RE: MUR 4393

Dear Mr. Payne:

This letter acknowledges receipt on June 25, 1996, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). The complaint is enclosed. We have numbered this matter MUR 4393. The respondent(s) will be notified of this complaint within five days.

You will be notified as soon as the Federal Election Commission takes final action on your complaint. Should you receive any additional information in this matter, please forward it to the Office of the General Counsel. Such information must be sworn to in the same manner as the original complaint. We have numbered this matter MUR 4393. Please refer to this number in all future communications. For your information, we have attached a brief description of the Commission's procedures for handling complaints.

Sincerely,

Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosure
Procedures

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FEDERAL ELECTION COMMISSION
Washington, DC 20463

June 28, 1996

Cecil J. Banks
238 Elmwynd Drive
Orange, NJ 07050

RE: MUR 4393

Dear Mr. Banks:

The Federal Election Commission received a complaint which indicates that you may have violated the Federal Election Campaign Act of 1971, as amended ("the Act"). A copy of the complaint is enclosed. We have numbered this matter MUR 4393. Please refer to this number in all future correspondence.

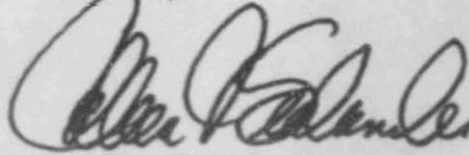
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under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

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

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

Sincerely,



Colleen T. Sealander, Attorney
Central Enforcement Docket

Enclosures

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

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VIOLATIONS OF THE FEDERAL ELECTION CAMPAIGN ACT OF 1971, AS AMENDED, THE ACT...

MAR 5 11 40 AM '97

In the Matter of

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ENFORCEMENT PRIORITY

SENSITIVE

GENERAL COUNSEL'S REPORT

MAR 11 1997

EXECUTIVE SESSION

I. INTRODUCTION

The cases listed below have been identified as either stale or of low priority based upon evaluation under the Enforcement Priority System (EPS). This report is submitted to recommend that the Commission no longer pursue these cases.

II. CASES RECOMMENDED FOR CLOSURE.

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

EPS was created to identify pending cases which, due to the length of their pendency in inactive status or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditure of resources. Central Enforcement Docket (CED) evaluates each incoming matter using Commission-approved criteria which results in a numerical rating of each case.

Closing such cases permits the Commission to focus its limited resources on more important cases presently pending before it. Based upon this review, we have identified 25 cases which do

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not warrant further action relative to other pending matters.¹ Attachment 1 to this report contains summaries of each case, the EPS rating, and the factors leading to assignment of a low priority and recommendation not to further pursue the matter.

B. Stale Cases

Effective enforcement relies upon the timely pursuit of complaints and referrals to ensure compliance with the law. Investigations concerning activity more remote in time usually require a greater commitment of resources, primarily due to the fact that the evidence of such activity becomes more remote and consequently more difficult to develop. Focusing investigative efforts on more recent and more significant activity also has a more positive effect on the electoral process and the regulated community.

¹ These cases are: MUR 4332 (*Bill Thomas Campaign Committee*); MUR 4347 (*Anonymous Respondent*); MUR 4354 (*Brian Steel for Congress*); MUR 4367 (*Philipstown Republicans*); MUR 4371 (*Employment Group*); MUR 4373 (*Cannon for Congress*); MUR 4374 (*Mark Stodola for Congress Primary Committee*); MUR 4375 (*Westchester County Conservative Party*); MUR 4377 (*Braxton for Congress*); MUR 4379 (*Teamsters Local Union No. 135*); MUR 4383 (*Pauken for Congress*); MUR 4384 (*Willie Colon for U.S. Congress*); MUR 4388 (*Bill Witt for Senate and Congress*); MUR 4390 (*Kolbe 96*); MUR 4391 (*Pat Roberts for Congress Committee*); MUR 4393 (*Cecil J. Banks*); MUR 4397 (*AFL-CIO*); MUR 4405 (*Katz for Congress Committee*); MUR 4411 (*First Evangelical Presbyterian Church*); MUR 4414 (*Turietta-Koury for Congress Committee*); MUR 4418 (*Bell Atlantic*); MUR 4421 (*Butler for Mayor*); MUR 4448 (*Friends for Jim Rapp*); Pre-MUR 334 (*Kinnamon for Congress*); and Pre-MUR 335 (*Davis for Congress*).

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We have identified cases which have remained on the Central Enforcement Docket for a sufficient period of time to render them stale 12 are not worthy of further action, and merit closure.⁴

We recommend that the Commission exercise its prosecutorial discretion and direct closure of the cases listed below, effective April 1, 1997. Closing these cases as of this date will permit CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

⁴ These cases are: MUR 4139 (*Enid 94*); MUR 4150 (*Frank Fasi*); MUR 4257 (*DSCC*); MUR 4258 (*NRSC*); MUR 4260 (*Packwood & Auto Dealers*); MUR 4261 (*NRA Institute for Legis.*); MUR 4262 (*Oregon Republican Party*); MUR 4265 (*NRSC; Sen. Phil Gramm*); MUR 4272 (*Bishop for Congress*); MUR 4279 (*Russ Berrie Co.*); MUR 4284 (*United We Stand America*); and Pre-MUR 322 (*Royal Hawaiian Country Club*).

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III. RECOMMENDATIONS.

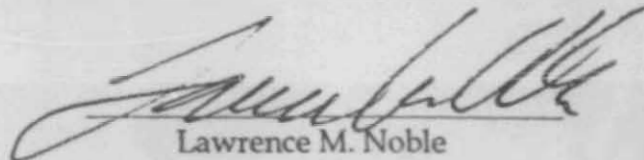
A. Decline to open a MUR, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

- 1. Pre-MUR 322
- 2. Pre-MUR 334
- 3. Pre-MUR 335.

B. Take no action, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

- | | | |
|--------------|--------------|--------------|
| 1. MUR 4139 | 13. MUR 4347 | 25. MUR 4390 |
| 2. MUR 4150 | 14. MUR 4354 | 26. MUR 4391 |
| 3. MUR 4257 | 15. MUR 4367 | 27. MUR 4393 |
| 4. MUR 4258 | 16. MUR 4371 | 28. MUR 4397 |
| 5. MUR 4260 | 17. MUR 4373 | 29. MUR 4405 |
| 6. MUR 4261 | 18. MUR 4374 | 30. MUR 4411 |
| 7. MUR 4262 | 19. MUR 4375 | 31. MUR 4414 |
| 8. MUR 4265 | 20. MUR 4377 | 32. MUR 4418 |
| 9. MUR 4272 | 21. MUR 4379 | 33. MUR 4421 |
| 10. MUR 4279 | 22. MUR 4383 | 34. MUR 4448 |
| 11. MUR 4284 | 23. MUR 4384 | |
| 12. MUR 4332 | 24. MUR 4388 | |

3/5/97
Date


Lawrence M. Noble
General Counsel

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
Enforcement Priority) Agenda Document #X97-16

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the Federal Election Commission executive session on March 11, 1997, do hereby certify that the Commission decided by a vote of 5-0 to take the following actions with respect to the above-captioned matter:

A. Decline to open a MUR, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

1. Pre-MUR 322;
2. Pre-Mur 334;
3. Pre-MUR 335.

B. Take no action, close the file effective April 1, 1997, and approve the appropriate letters in the following matters:

- | | |
|--------------|---------------|
| 1. MUR 4139; | 10. MUR 4279; |
| 2. MUR 4150; | 11. MUR 4284; |
| 3. MUR 4257; | 12. MUR 4332; |
| 4. MUR 4258; | 13. MUR 4347; |
| 5. MUR 4260; | 14. MUR 4354; |
| 6. MUR 4261; | 15. MUR 4367; |
| 7. MUR 4262; | 16. MUR 4371; |
| 8. MUR 4265; | 17. MUR 4373; |
| 9. MUR 4272; | 18. MUR 4374; |

(continued)

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Federal Election Commission
Certification: Enforcement Priority
March 11, 1997

Page 2

19. MUR 4375;	27. MUR 4393;
20. MUR 4377;	28. MUR 4397;
21. MUR 4379;	29. MUR 4405;
22. MUR 4383;	30. MUR 4411;
23. MUR 4384;	31. MUR 4414;
24. MUR 4388;	32. MUR 4418;
25. MUR 4390;	33. MUR 4421;
26. MUR 4391;	34. MUR 4448.

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

Attest:

3-12-97
Date

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

9704379285C



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

William D. Payne, Campaign Manager
Don Payne for Congress
P.O. Box 2406
Newark, NJ 07114

RE: MUR 4393

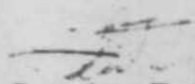
Dear Mr. Payne:

On June 25, 1996, the Federal Election Commission received your complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against the respondents. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 1997. This matter will become part of the public record within 30 days.

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

Sincerely,


F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

97043792851

MUR 4393
CECIL J. BANKS

William D. Payne, campaign manager for Don Payne for Congress alleges that during the 1996 primary election for the 10th district of New Jersey, Cecil J. Banks failed to file a Statement of Candidacy with the FEC in a timely fashion after reaching the \$5,000 mark in receipts and disbursements. He alleges that Mr. Banks also failed to file required FEC reports. Mr. Banks lost the primary election with 7% of the vote.

Respondent Cecil Banks filed no direct response to this complaint, but did file a Statement of Candidacy and 12 Day Pre-Primary and July Quarterly reports with the Commission on July 8, 1996, approximately 10 days after the complaint was mailed to him. --

This matter is less significant than others pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

April 1, 1997

Cecil J. Banks
238 Elmwynd Drive
Orange, NJ 07050

RE: MUR 4393

Dear Mr. Banks:

On June 28, 1996, the Federal Election Commission notified you of a complaint alleging certain violations of the Federal Election Campaign Act of 1971, as amended. A copy of the complaint was enclosed with that notification.

After considering the circumstances of this matter, the Commission has determined to exercise its prosecutorial discretion and to take no action against you. See attached narrative. Accordingly, the Commission closed its file in this matter on April 1, 1997.

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

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

Sincerely

F. Andrew Turley
Supervisory Attorney
Central Enforcement Docket

Attachment
Narrative

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MUR 4393
CECIL J. BANKS

William D. Payne, campaign manager for Don Payne for Congress alleges that during the 1996 primary election for the 10th district of New Jersey, Cecil J. Banks failed to file a Statement of Candidacy with the FEC in a timely fashion after reaching the \$5,000 mark in receipts and disbursements. He alleges that Mr. Banks also failed to file required FEC reports. Mr. Banks lost the primary election with 7% of the vote.

Respondent Cecil Banks filed no direct response to this complaint, but did file a Statement of Candidacy and 12 Day Pre-Primary and July Quarterly reports with the Commission on July 8, 1996, approximately 10 days after the complaint was mailed to him. -

This matter is less significant than others pending before the Commission.

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FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4393

DATE FILMED 4-25-97 CAMERA NO. 1

CAMERAMAN JmH

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