

Hilliard's finances indicate possible violations of federal law

By Jack Friedly

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

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

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

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

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

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

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

- Rent for Hilliard's federal office in Birmingham was increased more than 25 percent at the beginning of this year after his campaign, which now pays no rent, moved into the same building in late 1996.

- "Official resources should be used for official purposes only," said the House ethics committee general counsel, Ted van der Meid, speaking in general terms. "To the extent that someone is using public office for private gain, that's all problematic."

In 1995 and 1996, Hilliard's congressional office in Montgomery was used for campaigning, according to several people. But the \$1,000 a month rent was paid entirely by the federal government.

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

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

Possible taxpayer subsidies of Hilliard's campaign.

campaign operation.

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

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

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

"While it is possible for congressional

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

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

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

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

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

At about the same time as the move, the rent on his congressional office increased more than 25 percent, from \$1,120 to \$1,420 a month. Meanwhile, his campaign has paid nothing in rent in its new location. Henry Penick, the building's owner, an attorney who formerly represented Hilliard and who now shares the second floor with Hilliard, denied any connection

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

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

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

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

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

Though Hilliard's office had no comment, former aides denied that the line between Hilliard's congressional office and his businesses blurred. Asked about connections between the two, former Assistant Office Manager Don Hull said he knew of "none whatsoever." Another former aide, Jacqueline Smith, concurred. "I was very clear on what my duties were," she said, although she added that Williams was "very confidential in everything she did" and could not say what she did.

Williams, reached by telephone, declined comment.

Rep. Hilliard responds

After repeated attempts to contact me from Rep. Hilliard, The Hilliard of the page letter summarizing this article. Hilliard responded with the following letter:

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

"Based on telephone calls received by members of my staff, you have contacted virtually every employee that I have dismissed (or who has resigned from my staff).

"However, it appears that you have exaggerated and distorted facts and have added lies and dishonesty to arrive at unsubstantiated conclusions regarding unethical or illegal conduct. This appears to have been done with reckless disregard for the truth or veracity of the allegations.

"I have been under attack ever

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

Sincerely,
Earl F. Hilliard
Member of Congress

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Rep. Hilliard

Hilliard radio station helped by tax funds

By Jock Friedly

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

Second of a two-part series

Hilliard's office later began paying a firm associated with the college's president — who was fired for his role in these and other expenditures — \$1,000 a month in tax funds to rent office space, many times what real estate experts say the tiny space is worth.

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

The state audit that mentions

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the college's expenditure of tax dollars was the subject of local press reports, but because control of the radio station at the time of the expenditures was not disclosed to federal regulators, his full role has never before been revealed.

The story of how large sums of tax money were spent to benefit the radio station grows out of the tortured history of a radio station in Prattville known as WIQR.

In May 1988, when Hilliard was a state senator, his family-owned company, the American Trust Broadcasting Corp., owned WIQR. The company sold the station to Canterbury Broadcasting Corp., a firm owned by Bob Hutchins of Jackson, Miss. Hutchins did not buy the station outright. He borrowed \$150,000 from Hilliard, and scheduled regular payments.

Hutchins soon had trouble paying Hilliard back. In court filings, he said it was because Hilliard failed to tell him about a large lien against radio station equipment, despite a clause in the sale contract declaring that the station equipment was "free and clear of all liens and encumbrances."

Then, Hilliard allegedly took drastic action. According to the complaint Hutchins later filed in federal district court, obtained from archives in Atlanta, Hilliard visited the station with a locksmith to "illegally" gain entry "during non-business hours." Once in, the complaint said, he "wrongfully seized" station records and equipment, including some that Hutchins had purchased from elsewhere.

"He had someone physically break into the studio and stole the equipment," Gary

Richardson, an executive with Canterbury Broadcasting, told The Hill. "What happened in the process is Earl Hilliard took control of the radio station without legal right to do so."

The Hutchins suit said Hilliard sold the equipment for \$200,000 to Montgomery West Community Foundation Inc., a non-profit corporation in which Hilliard was an officer. Montgomery West was founded by employees of Trenholm State Technical College, a school run by Thad McClammy. A long-time Hilliard ally, McClammy served in the state legislature with Hilliard and continues to serve there.

That fall of 1989, the suit alleged, Montgomery West used the seized equipment to begin broadcasting as WSKN.

With none of the required documentation coming in from the station, such as annual ownership reports, Federal Communications Commission records show that agency officials assumed in 1990 that the radio station had gone off the air.

What actually happened with the station was described in an audit filed in February 1995 by the Alabama Department of Examiners of Public Accounts. The audit's findings were supported by a detailed September 1997 report from the U.S. Department of Education.

The state audit revealed that from 1989 to 1992, the college spent \$472,000 in state and federal funds on WSKN, the facility housing it, and another building being renovated for the station's use. The federal moneys were intended for other programs at Trenholm because it is considered a historically black university.

The college's expenditures on WSKN "failed to comply" with "laws, regulations, directives, and guidelines of the State of Alabama and federal award programs," the audit found.

The audit detailed how Trenholm State paid for renovation of the WSKN building, even though required approval from the State Board of Education was not sought and competitive bids were not requested. Auditors found that the renovations totaled \$41,600, including \$38,200 in federal funds. Utility and other miscellaneous station expenses paid by taxpayers amounted to \$5,100.

Trenholm State also staffed Hilliard's new station. Tax funds used for that purpose totaled \$127,500, including \$20,300 in federal money, the audit report revealed.

Beverly Ross, a college official who managed the station, said then-Sen. Hilliard would stop by every so often "and offer suggestions as to what to do with the station." But, she said, "I didn't deal with Mr. Hilliard on a day-to-day basis."

The audit report also found that Trenholm State entered into a lease-purchase of a neighboring building at 3005 Fairwest Place that Hilliard's insurance company owned.

Although Trenholm ultimately did not exercise its option to purchase the property, the audit said the college spent \$148,000 of tax dollars on renovations. Unnamed private businesses occupied Hilliard's building, leading auditors to conclude that "the renovation of a building to house private businesses does not appear to comply with the laws and regulations of the State of Alabama and federal award programs."

In addition, the college approved the lease-purchase of another building, with 11 of the 29 rooms to be used by WSKN, the audit said. Some \$150,000 of tax money, including \$115,000 in federal grant money, went to fund renovations that were neither approved by the State Board of Education nor sent out for competitive bids.

In August 1992, Hilliard settled the legal battle over WSKN. Hutchins received \$150,000 from Montgomery West, which also relieved him of his \$150,000 debt to Hilliard.

Whether Hilliard personally profited from this arrangement is unclear. The audit was not designed to determine that. The audit report did not even mention Hilliard or his company by name.

Hilliard station benefited from taxpayer funds

After the audit was published in 1995, the State Board of Education removed McClammy from his post. A federal criminal probe ensued, ending last year with no charges filed because "no cognizable federal criminal offense" had occurred, a Dec. 30, 1995, press release from the U.S. Attorney's Office in Montgomery stated. Without mentioning names, the release added that "the inquiry disclosed certain other matters which remain under review and on which work is continuing."

In court, the state is seeking the return of \$577,000 for which it said McClammy is personally liable, including some of the money expended for the benefit of Hilliard's radio station. The Department of Education is currently seeking nearly \$1 million that it says Trenholm State owes.

McClammy did not return several phone calls seeking comment for this article. However, in response to the audit, he asserted in 1995 that "even though the station was licensed as a commercial station, it functioned as a college radio station providing public service to the community and training opportunities for college students."

McClammy and Hilliard have also been involved in other business dealings. In March 1995, Hilliard moved his congressional office in Montgomery from the federal building to a former bank branch building on Norman Bridge Road subleased from R.S. & Associates, a firm affiliated with McClammy.

According to a former Hilliard employee, the congressman told his staff that the move was intended to save money. Instead, the rent cost \$1,000, or 60 percent more than before.

After the 1996 election, Hilliard again moved his Montgomery congressional office, this time to an empty building controlled by McClammy on West South Street. He continued to pay \$1,000 every month to R.S. & Associates.

Hilliard only has one permanent aide in his Montgomery office, with part-time employees sometimes bringing the staff to two. And Hilliard's office appears to be only about 9 feet by 12 feet, according to Mollie Shavers, a neighbor who inspected the building at The Hill's request.

Shavers said, based on what he saw it might be possible that Hilliard's office had another room for storage or equipment, but not much more than that. The office building's only other tenants that Shavers could see are McClammy and John Knight, another state legislator who is friends with Hilliard and McClammy. "Eighty percent of it is empty," Shavers said.

Leon Obenhaus, a Montgomery real estate agent specializing in commercial office space, said McClammy has had trouble renting the building because of its condition and its location in an unsafe neighborhood. He estimated the cost of office space at no more than \$4 per square foot per year, which at \$1,000 a month would allow Hilliard to rent space the size of a large home.

Other commercial real estate experts said that even rents for the most luxurious office space in Montgomery, which top out at \$20 per foot, would not justify the rent for office space several times the size of what Shavers saw.

Shannon Cutler provided research assistance for this article in Atlanta.

Hilliard responds to allegations

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

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

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

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

because of their limited payout.

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

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

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

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

—JOCK FRIEDLY