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ONE HUNDRED SIXTH CONGRESS

## U.S. House of Representatives

COMMITTEE ON STANDARDS OF  
OFFICIAL CONDUCT

Washington, DC 20515-6328

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May 12, 1999

### **BY HAND-DELIVERY**

The Honorable Earl F. Hilliard  
1314 Longworth House Office Bldg.  
U.S. House of Representatives  
Washington, DC 20515

Dear Colleague:

Pursuant to Rule 19 of the Rules of the Committee on Standards of Official Conduct ("Committee"), we respectfully request that you respond in writing to the following additional questions regarding matters under review by the Committee.

### **Financial Disclosure of Ownership Interest in Hilliards & Company, Inc.**

In your May 1998 amendment to Financial Disclosure Statements for the years 1992 through 1997, you indicated that you were not required under the Ethics in Government Act to report Hilliards & Company, Inc. as an asset on your Financial Disclosure Statements for those years. The Committee understood your amendment to be based on an April 29, 1998, letter to Ralph Lotkin from the Committee Chairman and Ranking Minority Member, in which they discussed an exception to the reporting requirement for assets with a negative book value. In your May 1998 letter of amendment, however, you did not specify the reason why Hilliards & Co., Inc. was not a reportable asset for the years 1992-1997.

1. Please confirm: (a) that the book value of Hilliards & Co., Inc. was negative for each of the reporting periods covered by your Financial Disclosure Statements for 1993, 1994, 1995, 1996, and 1997; and (b) that the value of the corporation was not otherwise ascertainable each year without an appraisal.
2. In connection with the above question, it would be helpful to the Committee if you would provide copies of annual corporate financial statements for each of the years in question.
3. In your December 1997 amendment to your Financial Disclosure Statements for 1992-1997, you reported a 32% interest in Hilliards & Co., Inc. In your May 1998 amendment, however, you reported a 30.5% interest. Please clarify the amount of

your current percentage interest in the company. In addition, please specify the percentage interests currently held by other family members. Finally, please specify whether your percentage interest in Hilliards & Co., Inc. and the percentage interests of other family members has changed since 1992, and, if so, the date and amount of any such changes.

**Disclosure of Ownership Interest in Greater Birmingham Golf Association, Inc.**

1. Please specify why you believe your interest in Greater Birmingham Golf Association, Inc. was not reportable under the Ethics in Government Act for the years 1992 through 1997.
2. To the extent you believe that your interest in Greater Birmingham Golf Association, Inc. was not reportable for the years in question because of the book value of the corporation, please confirm: (a) that the book value of the corporation was negative for each of the reporting periods covered by your Financial Disclosure Statements for the years 1992 through 1997; and (b) that the value of the corporation was not otherwise ascertainable each year without an appraisal.

**Campaign Expenditures for Rent**

1. Questions have been raised about whether the rents previously paid by your campaign committee for occupancy in Birmingham corresponded to fair market value. Filings by your campaign with the Federal Election Commission ("FEC") indicate that your campaign's monthly rent at the Third Avenue North location in Birmingham increased from \$600 to \$1,000 in approximately April 1993 and increased again from \$1,000 to \$1,500 in approximately September 1993. To assist the Committee in evaluating whether those rent increases were consistent with Federal election campaign laws and corresponding House rules, please explain the reasons for each of those rent increases and specify when each increase took effect.<sup>1</sup>
2. FEC filings by your campaign reported that the campaign made monthly payments for rent in the amount of \$2,000 to American Trust Corporation on September 20, 1996; October 1, 1996; November 7, 1996; and December 9, 1996. The FEC filing

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<sup>1</sup> In connection with rent increases incurred by your campaign at the Third Avenue North location in Birmingham in 1993, the Chairman and Ranking Minority Member asked the following question in their letter to you dated January 13, 1998: "On what factors were those rent increases based?" In his response of March 5, 1998, Mr. Lotkin responded: "The campaign obtained additional space (in unit 1612-B for storage and advertisement space. A large banner was erected (4ft x 20 ft approximately) and displayed across the front of the building." The Committee now asks additional questions about this matter to clarify whether both rent increases were based on the campaign's acquisition of additional space and, if not, on what factors each increase was based.

dated September 20, 1996, specified that the rent payment was for "Montgomery" for August and September 1996. The FEC filings reporting the rent disbursements on October 1, November 7, and December 9, 1996, did not specify the campaign office to which those disbursements related. Please confirm whether the September 1996 rent payment pertained to the campaign office in Montgomery, and that the monthly rent in Montgomery at that time was \$2,000. In addition, please specify which campaign office locations corresponded to the three other rent payments listed above.

3. According to the FEC filing dated October 11, 1996, the \$2,000 campaign payment for rent in Montgomery on September 20, 1996, was made to American Trust Corporation. Please explain why this (and other rent payments for Montgomery, if any) were made to American Trust Corporation. If American Trust Corporation owned the building in which the campaign rented space in Montgomery or was the lessor, please provide documents so indicating.
4. If any of the \$2,000 rent payments listed in question three above pertained to the campaign's occupancy of space in Birmingham, please explain why rent at the Third Avenue property increased from \$1,500 to \$2,000 (a 33% increase), and when that increase occurred. In addition, please specify whether this increase occurred during the period when the building at Third Avenue was still under the control of the Alabama Insurance Commissioner. (In his letter to the Committee Chairman and Ranking Minority Member dated February 25, 1998, Mr. Lotkin advised that the Alabama Insurance Commissioner took control of the building in June 1996.)
5. In their letter to Mr. Lotkin of January 13, 1998, the Chairman and Ranking Minority Member asked you to "[p]lease provide the addresses of your campaign offices in Alabama from 1991 to the present, and state when the campaign offices were located at those addresses." In Mr. Lotkin's response of March 5, 1998, he provided the addresses of campaign offices for aggregate calendar years, but was not more specific as to when your campaign occupied space at the addresses provided. (See page 3 of Ralph Lotkin's March 5, 1998, letter to the Honorable James V. Hansen and the Honorable Howard L. Berman.) To assist the Committee in evaluating allegations regarding your campaign, please provide a more specific chronology (*i.e.*, by month) of locations and addresses where your campaign offices in Alabama have been located from January 1, 1992, to the present, indicating the specific dates applicable to occupancy at each location, and the acquisition of any additional space. In addition, please clarify whether units 1612-A, 1612-B, and 1614-A on Third Avenue North in Birmingham are located in the same building.
6. In his letter dated February 25, 1998, Mr. Lotkin advised that your campaign did not pay rent for occupancy at 1612 Third Avenue North in Birmingham between June 1996, when the Alabama Insurance Commissioner took control of the building, and the campaign's location of "a new place." The Committee is interested in determining whether your campaign committee may have received any improper in-

kind contributions in the form of free occupancy. Therefore, please specify: (a) the period in which the campaign paid no rent for occupancy of space in Birmingham;<sup>2</sup> (b) why the campaign paid no rent during that period; (c) the location(s) from which the campaign conducted its activities during the period in which it did not pay rent; (d) the amount of rent that was unpaid; (e) who held title to the building (or who was lessor) during the period in which rent was unpaid; and (f) whether the campaign subsequently paid back-rent for the period in which it had not made rent payments.

7. What knowledge, if any, did you have that your campaign was occupying office space at no charge at the Third Avenue location in Birmingham during the period when it was paying no rent to occupy those premises?
8. Please state whether there was any period in which the campaign paid rent for occupancy of premises at Third Avenue in Birmingham in which the campaign office was not, in fact, located at Third Avenue.
9. During the period in which your campaign occupied office space at the Third Avenue location in Birmingham without making rent payments, did it also receive utility services without paying for those services?
10. A review of FEC filings by your campaign indicates several gaps in reported payments for rent of premises in Birmingham. Based on their review of the FEC filings, for example, Committee staff have been unable to identify any rent payments between:
  - A reported \$600 payment to American Trust Life Insurance Corporation on October 1, 1992, and a reported payment of \$1,000 to American Trust Life Insurance Corporation on April 9, 1993.
  - A reported \$1,000 payment to American Trust Life Insurance Corporation on June 8, 1993, and a \$1,500 payment to the African American Institute on October 1, 1993.
  - A reported \$4,500 payment to "American Trust" on May 26, 1995 (possibly for three months of rent) and a reported \$3,000 payment to American Trust Corporation on January 3, 1996, for "Rent Jan. & Feb."<sup>3</sup>

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<sup>2</sup> Based on their review of FEC filings by your campaign committee, Committee staff have been unable to identify any disbursement for rent in 1997 until December 1997, when the campaign reportedly paid \$300 to Penick Realty Co. in Birmingham.

<sup>3</sup> Committee staff, however, have been unable thus far to obtain your campaign's year-end FEC filing for 1995, which could reflect rent payments between the May 1995 and January 1996 payments noted above.

The Committee is interested in determining whether your campaign committee may have received improper in-kind contributions in the form of free occupancy for the above-specified periods in which rent payments do not appear indicated on your campaign's FEC filings. Please comment on these apparent gaps in rent payments and state whether your campaign received occupancy of any premises during the periods indicated for which it did not pay rent.

11. To assist the Committee in evaluating allegations regarding your campaign, please explain: (a) why your campaign office in Birmingham moved to 1703 4<sup>th</sup> Avenue North in December 1997; and (b) why rent at the latter location was only \$300. In that regard, it would be helpful to the Committee if you would specify the total square footage occupied by the campaign at the Third Avenue North and Fourth Avenue North locations, respectively.
12. FEC filings by your campaign indicate that the campaign paid \$300 to Penick Realty on January 6, 1998 (consistent with the new lease entered into in December 1997) and paid \$900 to Penick Realty on April 6, 1998, for the months of February, March, and April 1998. Based on their review of FEC filings by your campaign through early January 1999, however, Committee staff have been unable to identify any subsequent rent payments to Penick Realty for the campaign office in Birmingham after the April 1998 payment. The Committee is interested in determining whether your campaign committee may have received improper in-kind contributions in the form of free occupancy. In that regard, please specify the date and amount of rent payments by your campaign for the Birmingham campaign office since the reported payment of April 6, 1998, and explain any gaps in monthly rent payments by the campaign.

#### Campaign Expenditures for Utility Services

1. In the Committee's letter of January 13, 1998, the Chairman and Ranking Minority Member asked, "To what extent, if any, did your campaign pay the utility bills relating to use of the premises at Third Avenue in Birmingham by entities other than the campaign." In response, Mr. Lotkin advised in his letter of March 5, 1998, that "[e]ach entity paid its own overhead and rent." In his subsequent letter of April 2, 1998, Mr. Lotkin stated that "[t]he campaign had separate utilities with respect to occupancy of the rental at 1612 3<sup>rd</sup> Avenue, North and paid them. No other entities occupied that space leased to the campaign." The Committee is uncertain of the meaning of Mr. Lotkin's responses. Therefore, please clarify whether your campaign has ever paid for any utility services received by any organization other than the campaign.

**Campaign's Payments for Insurance Premiums**

1. None of the disbursement entries for insurance payments included in the campaign's FEC filings mentions Elizabeth Redmond or a health insurance policy, and the March 5, 1998, letter from Blue Cross to Ms. Redmond contains no mention of the campaign or who was paying for the insurance. It therefore would be helpful to the Committee if you would provide documentation corroborating that your campaign paid for Elizabeth Redmond's health insurance.
2. The information provided by Mr. Lotkin indicates that the campaign paid insurance premiums to three different organizations in connection with Ms. Redmond's health care policy: American Trust Corporation, American Trust Life Insurance Company, and American Trust Communication Corporation. Please explain why the campaign made insurance premium payments to third parties, rather than directly to Blue Cross. In addition, please explain why insurance premiums were paid to three different business entities.
3. If Ms. Redmond's health insurance policy was in effect beginning on May 1, 1994, as indicated by Mr. Lotkin, please explain why FEC filings do not reflect payment of an insurance premium by the campaign until September 7, 1994 -- four months later.
4. Please explain why your press secretary, Kenneth Mullinax, reportedly told the Associated Press that the insurance in question was for *life insurance*, rather than health insurance.

**Rent for Campaign and Congressional District Offices in Birmingham**

1. The \$300 monthly rent for the Birmingham campaign office, instituted pursuant to the December 1997 lease with Penick Realty, appears low in comparison with the previous monthly rent paid by the campaign of at least \$1,500, particularly given the Committee's previous need for additional space. Please explain the basis for the \$300 monthly rent.
2. To the best of your knowledge or belief, has any organization in which you or a family member had a business interest or held a position received free or subsidized occupancy of the building housing your congressional district office in Birmingham?
3. Please provide copies of rental agreements in effect in 1997 relating to occupancy of the Birmingham building housing your congressional office by private organizations (if any) in which you or family members held an ownership interest or a position.

**Campaign Loans to Rita Hall**

1. Please specify the purpose of each of the loans made by the campaign to Rita Hall. To the best of your knowledge and belief, how did Ms. Hall use the loan proceeds?
2. As of the FEC filing by your campaign dated January 11, 1999, Ms. Hall reportedly still owed an outstanding loan balance to your campaign of \$7,452. In light of the fact that these loans were made more than five years ago and are payable on demand, please explain why the campaign has not obtained repayment in full of the loans.
3. The FEC filing by your campaign dated January 31, 1994, reported that Ms. Hall made a loan repayment to the campaign of \$4,500 on October 1, 1993. The Committee would be appreciative if you would provide written documentation of that loan repayment.

**Campaign Loan to Elvira Willoughby**

1. According to an FEC filing by your campaign dated April 15, 1994, your campaign loaned \$1,500 to Elvira Willoughby on January 18, 1994. According to the same FEC filing, Ms. Willoughby repaid the loan in full on January 31, 1994. Please specify the purpose of the loan made to Ms. Willoughby and, to the best of your knowledge and belief, the use she made of the loan proceeds.
2. To assist the Committee in assessing whether the loan to Ms. Smith was consistent with Federal election campaign laws and corresponding House rules, please provide a copy of the loan agreement or other written documentation, if any, of the campaign's loan to Ms. Willoughby. In addition, please provide documentation of her repayment of the loan.

**Campaign Loan to Jacqueline Smith**

1. According to an FEC filing by your campaign dated April 15, 1994, your campaign loaned \$1,500 to Jacqueline Smith -- identified on the filing as a "Grants Writer" employed by your Birmingham congressional office -- on March 15, 1994. Please specify the purpose of the loan made to Ms. Smith and, to the best of your knowledge and belief, the use she made of the loan proceeds.
2. To assist the Committee in assessing whether the loan to Ms. Smith was consistent with Federal election campaign laws and corresponding House rules, please provide a copy of the loan agreement or other written documentation, if any, of the campaign's loan to Ms. Smith.

3. As of the FEC filing by your campaign dated January 11, 1999, Ms. Smith apparently had not repaid any portion of the loan. In light of the fact that this loan was made approximately five years ago, please explain why the campaign has not obtained repayment in full of the loan.

#### **Purchase and Sale of Building Housing the Birmingham Campaign Office**

1. Based on the information provided by Mr. Lotkin, the Committee understands that the African American Institute purchased the building at Third Avenue (in which your campaign office was located) from American Trust Life Insurance Co. in 1993 for \$385,000, then sold it back to American Trust Life Insurance Co. in 1995 for \$1.00 and other goods and valuable consideration. Please confirm the accuracy of the Committee's understanding.
2. To the best of your knowledge and belief, please explain the basis for the 1993 sales price of \$385,000. In addition, please provide any documents relating to the 1993 sale to the African American Institute, including any written appraisals of the Third Avenue property or documents regarding sales of comparable properties.
3. To the best of your knowledge and belief, please explain why the African American Institute resold the property in 1995.
4. To the best of your knowledge and belief, what was the balance of mortgage liability in 1995 at the time of the resale of the property to American Trust Life Insurance Co.?
5. In his letter of March 5, 1998, Mr. Lotkin advised that the "other goods and valuable consideration" provided by the purchaser to the African American Institute in the 1995 sale of the property was "the purchaser's assumption of mortgage liability held by Mr. Hilliard to William Parker and South Trust Bank." Please explain why the assumption in 1995 of mortgage liability by American Trust Life Insurance Co. of a debt held personally by you would have benefited the African American Institute.
6. What was your knowledge of, or involvement in, the 1993 and 1995 sales transactions at the time of those transactions?

#### **Use of Official Resources**

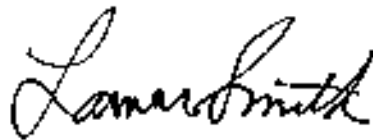
1. An article published in the December 3, 1997, issue of *The Hill* (see the attached) contained allegations of misuse of official resources by your congressional district offices in Alabama, both for campaign purposes and in connection with your private business interests. In a letter dated February 25, 1998, Mr. Lotkin commented on



these allegations in response to questions posed by the former Chairman and Ranking Minority Member in their letter to Mr. Lotkin of January 13, 1998. We invite you to submit whatever additional information you may desire in connection with the allegations as published by *The Hill*.

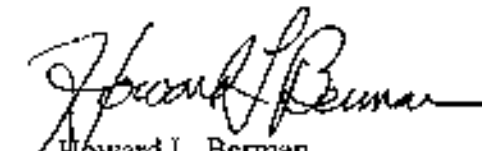
We respectfully request that you submit your responses to the above questions in writing by no later than June 11, 1999, that your attorney review your responses before they are submitted to the Committee, and that you personally sign your responses.

Thank you for your cooperation in this matter. If you have any questions regarding this letter, please contact Chief Counsel Robert Walker or Counsel David H. Laufman at (202) 225-7103.



Lamar Smith  
Chairman

Sincerely,



Howard L. Berman  
Ranking Minority Member

cc: Ralph Lotkin, Esq.

LS/HLB:dhl