

Former Congressman Reveals FBI Duty

Fear of Prosecution Led Him to Cooperate, Ky.'s Hubbard Says

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A former congressman from Kentucky worked as an FBI informer for six months this year, wearing a recorder on his body and taping phone conversations about a dozen times, as he tried to stave off prosecution in an investigation that started with the House Bank scandal.

Carroll Hubbard, whose nine terms in Congress ended after his

defeat in a Democratic primary last year, said he was an informer from April to October. Justice Department spokesman Carl Stern confirmed that Hubbard had worked as an informer for the FBI this year but would not elaborate.

The details of Hubbard's unusual story, according to Hubbard, his former lawyer and Justice Department sources, involve a congressman on the way out in 1992 and looking forward to a

new career as a lawyer and lobbyist who instead found himself the target of a federal investigation into his use of campaign funds.

Hubbard, 56, who had been investigated once before during his 18 years in Congress, said he felt his only way out of the predicament was to cooperate with the FBI. He had a reputation in Congress for a friendly, quirky absent-mindedness and a political

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CARROLL HUBBARD

... served 18 years in Congress

HUBBARD, From A1

agenda that rarely stretched beyond the interests of his district, and he said he thought he was going to be used to investigate Libyans and Libyan lobbyists. He said he recorded two conversations with a lobbyist for Libya.

But FBI agents—who gave Hubbard a beeper, fictitious stationery, business cards and the code name Elmer Fudd—used him mainly to record some of his old associates in Kentucky who were involved in the campaign activities under investigation, Hubbard said.

In September, Hubbard said, he refused to sign a plea agreement,

fearing he might eventually be asked to investigate his former colleagues on the Hill. Stern said the Justice Department had no plans to use Hubbard in such an investigation.

"For more than six months, I was an FBI slave," Hubbard said. "Now I cannot go back to Kentucky and practice law, and I cannot stay here in Washington and work as a lobbyist. I'm through." Hubbard said he would be unable to attract clients either in Washington or Kentucky once his role as an undercover informer was known.

He said he decided to discuss his case with The Post because he distrusted Justice officials.

With the plea deal off and the cooperation ended, Justice Department sources said, Hubbard has exposed himself to possible indictment on felony charges involving the alleged misuse of campaign funds and his congressional staff.

Once before, Hubbard was the subject of a Justice Department investigation. In the early 1980s, a federal grand jury in Washington looked into allegations that Hubbard had used his staff members in his campaigns, but the department's Public Integrity Section declined to prosecute.

Hubbard came to the attention of the FBI in 1991 when it was revealed that many congressmen had overdrawn their accounts at the House Bank. Hubbard's 152 overdrafts ranked 15th in number of checks among the 325 House members who overdraw. By December,

1992, the FBI was exploring how Hubbard used his staff and campaign funds.

In April, a prosecutor met with Hubbard and Dennis Null, who was then his lawyer, and played FBI tape recordings made surreptitiously last December by one of Hubbard's congressional aides.

According to Null's interpretation of what he heard on the tape, the congressman had urged his aide to take subpoenaed campaign finance documents on a Christmas trip and destroy them. The prosecutor, Thomas J. Eicher, who was directing the House Bank investigation, suggested that Hubbard cooperate with the FBI in exchange for leniency in court, according to Hubbard and Null.

"You've got to know when to hold 'em and when to fold 'em," Null said. "And that was a good time to fold." Null agreed to be interviewed after Hubbard released him from his lawyer-client privilege. Eicher declined to comment.

Hubbard said he did not intend that his aide destroy the records; rather, he said, he wanted to make sure she kept control of them in late December as he was closing his field office.

Hubbard said he understood the main focus of his cooperation would be Libya. He said he traveled on his own to Libya last year and met with Libyan leader Moammar Gadhafi. He said believed that the FBI wanted him to pose as a consultant in Washington looking for business from Libya.

Hubbard said he also recorded

conversations with a lobbyist for Libya, and he was hoping he was going to be part of an investigation into the crash of Pan Am Flight 103, in which Libyan terrorism was suspected.

But his primary assignment, he said, was to meet with associates in Kentucky—bankers and businessmen whom the FBI suspected had collaborated with Hubbard in questionable campaign practices.

After the meeting with Eicher, Hubbard said, he attended meetings with FBI agents in Washington and Kentucky so they could map out strategy and train him to be an informer.

The agent in charge, Robert Core, was among the FBI agents who worked with informer Ra-sheeda Moore in the 1991 arrest of former D.C. mayor Marion Barry at the Washington Vista Hotel. One FBI supervisor praised Core as a gifted, creative agent who excels in managing undercover operations.

Soon afterward, Hubbard said, FBI agents learned that Hubbard's brother, who also once lost a bid for Congress, was nicknamed Elmer Fudd, and they applied the cartoon character's name to Hubbard as a code.

Hubbard said he traveled to the western Kentucky towns of Owensboro, Benton and Mayfield—his hometown—during the operations. At one point, he said, the FBI agents stopped in the parking lot of a country church, and he stood under a shade tree while the agents fitted him with a belt containing miniature recorders.

In one operation, Hubbard said, he was instructed to talk with a Kentucky banker about a water main break that had flooded the bank's basement. Hubbard said the FBI wanted to see whether there had actually been a flood or whether the banker was using the story as an excuse not to comply with a subpoena for records involving Hubbard's accounts.

On another occasion, Hubbard said, he reported to the FBI's offices in Washington and was instructed to call a banker in Kentucky and record their conversation. When Hubbard had trouble reaching the banker, an FBI agent told him to call again and draw the banker to the phone by saying he

was Rep. Tom Barlow, the Democrat who defeated Hubbard.

"I guess I felt pretty low at that point," Hubbard said. "Here I was, out of Congress and working as an informer. And now, I'm impersonating the man who beat me."

On two occasions, Hubbard said, Core talked to him about plans for an "Abscam 2," referring to the FBI undercover operation in the early 1980s in which six congressmen and a senator were convicted of corruption charges.

"The Justice Department did not intend to use him in any 'Abscam 2,'" said Stern, who added that Core "emphatically denies" talking to Hubbard about investigating House members. Core declined to be interviewed.

Hubbard said the beginning of the end of his cooperation came in late September, when he received a proposed plea agreement from Eicher. Under the agreement, Hubbard would have to plead guilty to conspiracy to violate federal election laws, theft of government property and obstruction of justice. In return, the agreement contained a provision that could allow a judge to disregard sentencing guidelines and impose a much shorter sentence.

Now that Hubbard has rejected the plea offer, officials said, he risks prosecution on charges of theft, mail and wire fraud, obstruction of justice and federal election law violations.

Justice Department officials said

Eicher is investigating whether Hubbard improperly used his congressional aides in his wife's unsuccessful race in another Kentucky congressional district last year. In addition, the officials said, Hubbard's lack of documentation for some expense reimbursements from his campaign could be used as evidence for fraud and election law charges, and the recorded telephone conversation with his aide could be used as evidence of obstruction of justice.

If Hubbard were indicted and convicted of all the charges that prosecutors are reviewing, he could face a sentence of more than seven years, about twice the maximum sentence that he could have received under his plea offer.

"I've been absolutely destroyed by this," said Hubbard, who denied that he tried to obstruct justice. "And while there may be violations [of federal elections laws], they were honest mistakes."

Hubbard said it is true that his campaign reimbursed some of his expenses without full documentation, but he said many of his colleagues often do not adhere to strict accounting procedures for such reimbursements. In addition, Hubbard said, each of his staff members who worked on his wife's campaign did so when they were on annual leave.

Hubbard's wife, Carol Brown Hubbard, declined to be interviewed for this story.