



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE BEGINNING OF MUR # 4852

DATE FILMED 1-17-97 CAMERA NO. 4

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National Republican Senatorial Committee

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COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 1 2 29 PM '96 MAY 1 2 32 PM '96

SENATOR ALFONSE M. D'AMATO
CHAIRMAN

JOHN D. HEUBUSCH
EXECUTIVE DIRECTOR

CRAIG M. ENGLE
GENERAL COUNSEL

May 1, 1996

**BEFORE THE FEDERAL ELECTION COMMISSION
AND THE INTERNAL REVENUE SERVICE**

In the Matter of:

Congressman Bob Torricelli)
Torricelli for U.S. Senate, Inc.)

MUR # 4352

COMPLAINT

Summary

Congressman Bob Torricelli and his campaign for United States Senate have illegally profited from an unlawful corporate fundraising event at TONYA, Inc., in violation of 2 U.S.C. § 441b(a); 2 U.S.C. § 441d(a); 26 U.S.C. § 6113 and 26 U.S.C. § 6710. The National Republican Senatorial Committee respectfully requests the Federal Election Commission and the Internal Revenue Service to conduct an immediate investigation into this illegal fundraising event and require the Torricelli Committee to refund the money unlawfully raised at this corporate event.

The Law

There are three cardinal rules of Federal Election law, all of which have been violated by Congressman Torricelli's Senate campaign:

- 2 U.S.C. § 441b(a) makes it unlawful for any corporation to make a contribution or expenditure in connection with a federal election, and for any candidate to accept or receive any contribution prohibited by this section. This prohibition also precludes corporation from "facilitating the making of contributions to candidates." 11 C.F.R. § 114.2(f). "Facilitation means using corporate or labor organization resources or facilities to engage in fundraising activities in connection with any federal election." *Id.* A violation of this very section of the Act required Prudential Securities, Inc. to pay a record \$550,000 civil penalty to the Federal Election Commission in 1994.

RONALD REAGAN REPUBLICAN CENTER

425 SECOND STREET, N.E. • WASHINGTON, D.C. 20002 • (202) 675-6000

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- 97043772951
- 2 U.S.C. § 441d(a)(1) and (2) clearly state that whenever any person makes an expenditure for the purpose of soliciting any political contribution from the general public for the authorized committee of a federal candidate, such communication shall:

“clearly state that the communication has been paid for by such authorized political committee, or if paid for by other persons but authorized by a candidate ... [it] shall clearly state that the communication is paid for by such other persons and authorized by such authorized political committee.”

The Commission has recently reinforced this language by requiring said disclaimer be “clear and conspicuous” on any piece of “direct mail.” Violations of this section require a civil penalty equal to any contribution or expenditure involved in such violation. 2 U.S.C. § 437g(a)(6)(A).

- 26 U.S.C. § 6113 of the Internal Revenue Code requires each fundraising solicitation by or on behalf of a federal candidate committee contain an express statement in a conspicuous and easily recognizable format that political contributions “are not deductible as charitable contributions for Federal Income tax purposes.” Section 6710 of the Internal Revenue Code states that “if there is a failure to meet the requirement of Section 6113 with respect to a fundraising solicitation ... such organization shall pay a penalty of \$1,000 for each day on which such failure occurred.”

The Facts

On information and belief, on March 26, 1996, TONYA, Inc. located at 1000 Vermont Avenue, N.W., 5th Floor, Washington, D.C, 20005, posted a direct mail fundraising solicitation on Meter #8155520 to members of the general public on behalf of Congressman Bob Torricelli and Torricelli for U.S. Senate, Inc. A copy of this solicitation is hereby attached to this complaint as “Exhibit A”.

This fundraising solicitation clearly states that the event is at TONYA, Inc.’s offices. To RSVP for the event, the solicitee is instructed to call Valerie Brown, an employee of TONYA, Inc., at TONYA, Inc.’s corporate office at (202) 289-8100. The contribution reply envelope is also addressed to TONYA, Incorporated at their corporate office. The Host Committee includes members outside TONYA, Inc.’s restricted class.

Nowhere on the solicitation is there any indication of who paid for the solicitation, or whether it was authorized by Torricelli for U.S. Senate, or that contributions to this event are not deductible as charitable contributions for federal income tax purposes.

On April 24, 1996, Congressman Torricelli attended the fundraising event, and accepted contributions that were collected and kept at TONYA, Inc.’s headquarters.

Federal Election Commission reports filed by Congressman Torricelli’s Senate committee disclose no in-kind contributions by Tony Jones for the cost of the March 26, 1996, mailing or a pre-payment to TONYA, Inc. to cover the cost of this fundraiser.

The Argument

Election law abhors anonymous literature and corporate contributions to federal candidates. Both have occurred here, and the Federal Election Commission must require that Congressman Torricelli disgorge this illegal money from his Senate campaign. In fact,

the Commission has recently reinforced its disclaimer and corporate contribution regulations to clearly forbid what just occurred at this corporate-based fundraiser.

Given Congressman Torricelli's 14-year history as a federal candidate, the Commission must conduct a full audit of Torricelli's receipts to determine the full extent of this violation and whether knowing and willful violations have occurred.

Lastly, the Internal Revenue Code clearly states that contributors shall not be misled into believing their political contributions are tax deductible. Solicitations for political donations must carry the appropriate disclaimer, and there is a steep penalty for non-compliance.

Conclusion

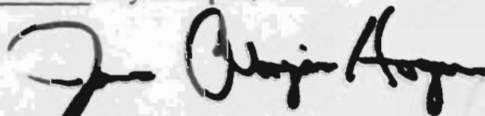
The National Republican Senatorial Committee respectfully requests the Federal Election Commission and Internal Revenue Service conduct an immediate investigation into the above-stated illegal practices. The Commission should require Congressman Torricelli to refund the illegally raised contributions, and both agencies should penalize Congressman Torricelli and Torricelli for U.S. Senate to the fullest extent permitted by law.

Sincerely,



Craig M. Engle
General Counsel
National Republican Senatorial Committee

Signed and sworn to before me this 30th day of April, 1996.



J. Aloysius Hogan, Esq.
Notary Public

My Commission expires November 30, 2000.

Host Committee

Ernie Green
Jeff Hirschberg
Avon James
Mitchell Burger
Weldon H. Latham
Jay Cooper
Pam Bethels
Rollie Kimbrough
Eric White
Carolyn Sue Williams
Frank Montique
Terry Rosen
Jeff Thompson
Mel Clark

Host
Tony Jones

Please Join

Congressman Bob Torricelli

Candidate for United States Senate, New Jersey

TONYA, Incorporated

April 24, 1996

6:00 p.m. - 8:00 p.m.

1000 Vermont Avenue, NW

5th Floor

Washington, DC 20005

Individual Donation:

\$500

PAC Donation:

\$5000

Please RSVP by enclosed card or to Valerie Brown at (202) 289-8100

TORRICELLI FOR U.S. SENATE, INC.

☐ YES, I would be delighted to join Bob. Enclosed is a personal check in the amount of \$_____ for _____ spaces for the event on _____.

☐ Sorry, I can't attend; however, I want to support Bob Torricelli. Enclosed is a personal check for \$_____ made payable to "Torricelli for U.S. Senate, Inc."

(Please send personal checks only, corporate checks are prohibited by federal law.)

Name: _____
Address: _____
City: _____ State: _____ Zip: _____
Occupation: _____
Employer: _____
Phone: (Home) _____ (Work) _____

Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year.

(PLEASE SEE THE REVERSE SIDE)

Please Read Carefully:

1. Please make checks payable to "Torricelli for U.S. Senate, Inc."
2. Corporate checks are prohibited by law.
3. An individual may contribute \$1000 for the primary election and another \$1000 for the general election (\$2000 per person or \$4000 total per couple).
4. Primary and/or general must be written on the check.
5. Joint contributions may be written on a joint account, as long as both spouses sign the check, or sign below.
6. Do not send cash contributions.
7. Please indicate whether an individual or joint contribution and sign below.
8. We would appreciate you enclosing your business card(s).

☐ Individual Contribution

Your signature _____

☐ Joint Contribution - This is to verify that this contribution should be contributed to us equally or as listed below.

Spouse's Signature _____

Spouse's Employer _____

Spouse's Occupation _____



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TONYA, Incorporated
1000 Vermont Avenue, NW
5th Floor
Washington, DC 20005

Attachment A
Page 2
Mailing Envelope

97043772955

TONYA, Incorporated
1000 Vermont Avenue, NW
5th Floor
Washington, DC 20005

Attachment: A
Page 3
Contribution Reply Envelope



FEDERAL ELECTION COMMISSION

Washington, DC 20463

May 7, 1996

**Craig M. Engle, General Counsel
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002**

RE: MUR 4352

Dear Mr. Engle:

This letter acknowledges receipt on May 1, 1994, of your complaint alleging possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act"). 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 4352. 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,

A handwritten signature in dark ink, appearing to read "Colleen F. Sealander".

**Colleen F. Sealander, Attorney
Central Enforcement Docket**

**Enclosure
Procedures**

97043772956



FEDERAL ELECTION COMMISSION

Washington, DC 20463

May 7, 1996

Stephen J. Moses, Treasurer
Torricelli for U.S. Senate, Inc.
P.O. Box 1865
South Hackensack, NJ 07606

RE: MUR 4352

Dear Mr. Moses:

The Federal Election Commission received a complaint which indicates that Torricelli for U.S. Senate, Inc. ("Committee") and you, as treasurer, 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 4352. Please refer to this number in all future correspondence.

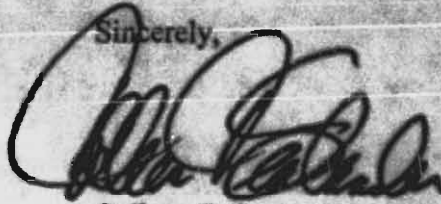
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against the Committee and you, as treasurer, in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements 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.

97043772957

If you have any questions, please contact Alva E. Smith 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

97043772958



FEDERAL ELECTION COMMISSION

Washington, DC 20463

May 7, 1996

The Honorable Robert Torricelli
House of Representatives
1026 Longworth Building
Washington, DC 20515

RE: MUR.4352

Dear Representative Torricelli:

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 4352. Please refer to this number in all future correspondence.

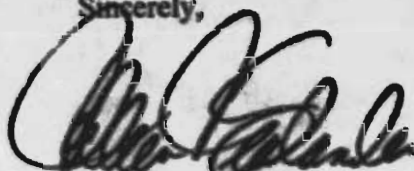
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under 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.

97043772959

If you have any questions, please contact Alva E. Smith 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

9704377294C



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 7, 1996

The Honorable Robert Torricelli
161 Walnut Street
Englewood, NJ 07631

RE: MUR 4352

Dear Representative Torricelli:

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 4352. Please refer to this number in all future correspondence.

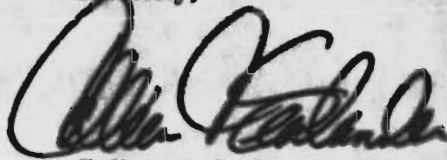
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be submitted under 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.

97043772961

If you have any questions, please contact Alva E. Smith 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

97043772952



FEDERAL ELECTION COMMISSION
Washington, DC 20463

May 7, 1996

Anthony Jones, Registered Agent
1620 I Street, NW #515
Washington, DC 20006

RE: MUR 4352

Dear Mr. Jones:

The Federal Election Commission received a complaint which indicates that you and TONYA, Inc., 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 4352. Please refer to this number in all future correspondence.

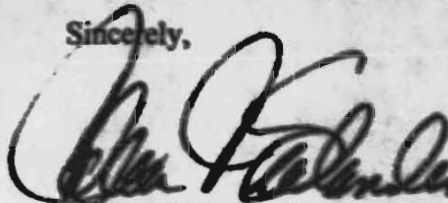
Under the Act, you have the opportunity to demonstrate in writing that no action should be taken against you and TONYA, Inc., in this matter. Please submit any factual or legal materials which you believe are relevant to the Commission's analysis of this matter. Where appropriate, statements should be 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 Alva E. Smith 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

97043772964

SILLS CUMMIS ZUCKERMAN RADIN TISCHMAN EPSTEIN & GROSS

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BARBARA A. SCHWARTZ

OF COUNSEL

DAVID BECK
VICTOR PUTTER
DENA L. WOLF
MITCHEL E. OSTNER

* ADMITTED IN NY ONLY
* ADMITTED IN JURISDICTION OF OTHER THAN NJ

PLEASE REPLY TO NEWARK

May 29, 1996

VIA FACSIMILE & FEDERAL EXPRESS

Colleen Sealander, Esq.
Alva Smith, Esq.
Office of General Counsel
Central Enforcement Docket
Federal Election Commission
999 E Street
Washington, DC 20463

Re: MUR 4352

Dear Ms. Sealander:

This firm represents Congressman Robert Torricelli, Torricelli for U.S. Senate, Inc. (the "Committee"), and Stephen J. Moses as Treasurer for Torricelli for U.S. Senate, Inc. in connection with the above-referenced matter. A statement of designation of counsel is enclosed. Your letter of May 7, 1996 transmitting the complaint in this MUR was received by the Committee on May 13, 1996.

This MUR was initiated by way of complaint filed by the National Republican Senatorial Committee. Upon reviewing all the relevant facts, we believe you will agree that the NRSC's complaint is based on incomplete information and incorrect assumptions in a transparent attempt to exploit the Commission's new corporate facilitation rules for political advantage. We respectfully submit that the NRSC's complaint merits no further inquiry by the Commission.

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OFFICE OF GENERAL
COUNSEL
MAY 30 11 27 AM '96

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Colleen T. Sealander, Esq.

Alva Smith, Esq.

May 29, 1996

Page 2

The NRSC's complaint makes repeated reference to MUR 3540, the Prudential matter, as though contributions on the order of those at issue in the Prudential matter were involved here. Nothing could be further from the truth. Less than \$12,000 was raised by the Committee at the event in question.

The NRSC alleges that the Committee profited from "an unlawful corporate fundraising event" held at Tonya, Inc. on April 24, 1996. It is the Committee's position that the campaign event held at Tonya's offices was not unlawful, and that all expenses in connection with the event chargeable to the Committee were in fact paid directly by the Committee in conformity with the Commission's new rules.

Though characterized as a corporate fundraiser by the NRSC, this event was actually organized on an individual basis by Tony Jones, Tonya's president, not Tonya. The solicitation materials do not name Tonya as a sponsor of any sort, only as the location for the function. To our knowledge, none of the fourteen-member host committee are employed by Tonya other than Mr. Jones.

To the best of the Committee's knowledge, corporate resources were not used to engage in fundraising beyond any of the exemptions set forth in 11 CFR 110.7, 100.8, 114.9(a) through (c) and 114.13.

To aid the Commission's review of this matter, we will address the following aspects of the event in question that may be of concern to the Commission:

- use of Tonya's corporate office to conduct the event;
- source of food catering and solicitation materials;
- source of staff to organize the event; and
- source of solicitation list.

It is the Committee's understanding that Tonya routinely makes use of its offices available to local political, civic and charitable groups for fundraising events and meetings on a regular basis, without charge. As such, holding this particular event at Tonya's corporate offices complies with 11 CFR 114.2(f)(2)(i)(D), and in fact, is consistent with the general practice at many corporate offices in the District of Columbia.

The Committee, and not Tonya, Inc., assumed full responsibility for the payment of outside vendors for food and printing costs, which were the principal, if not only, expenses associated with this small event. Contrary to the NRSC's contention that the Committee's

9704372966

Colleen T. Sealander, Esq.

Alva Smith, Esq.

May 29, 1996

Page 3

reports to do not include such expenses, the Committee's most recent reports include expense disbursements directly to the outside vendors responsible for the printing of materials and catering.

These items did not appear on the Committee's previous report because invoices had not yet been received at the time of filing. These invoices were paid within a commercially reasonable time per 11 CFR 114.2(f)(2)(i)(B). These expenses were not borne by the sponsor nor Tonya, Inc. in the first instance, so there is no issue of any advance of corporate funds to the Committee. Vendor invoices and copies of the Committee's disbursement checks are enclosed for your convenience. Accordingly, there has been no violation of 11 CFR 114.2(f)(2)(i)(E).

We understand that any work associated with organizing this relatively small event was nominal, and was handled on a voluntary basis by either Tony Jones, Valerie Brown, or Mr. Jones' daughter, Tonya. Though Ms. Brown is Mr. Jones' subordinate, it is our belief that her work falls in the exception provided at 11 CFR 114.9.

We do not believe that any of Tonya's corporate lists were used for establishing the list of individuals and organizations solicited for this event. It is the Committee's understanding that Mr. Jones used his personal lists of friends, acquaintances and organizations known by him to be potential contributors to the Committee, including PACs like the National Education Association PAC.

Campaign committee staff did not use any of Tonya's telephones, copying or other office services in advance of or in connection with the event. Telephone charges and copier use by Mr. Jones and Ms. Brown in connection with this small event were, if not nonexistent, nominal at most and well within the permissible range established by 11 CFR 114.9(a)-(c).

The only area of potential concern to the Commission that we can perceive are two related issues with respect to the text found on the solicitation material, namely, (i) the address appearing on the contribution reply envelope, and (ii) the disclosure statements on the event invitation. The Committee wishes to assure the Commission that these related issues arose from a single, isolated oversight stemming from the inability of the Committee's compliance staff to review and approve (or in this case, disapprove) of these materials in advance of the event, as is the Committee's otherwise exclusive practice.

Such issues have never before been a problem for the Committee or its predecessors, and do not in any way reflect on the Committee's general fundraising activities in this or any prior campaign cycle. There is certainly no cause for the fishing expedition requested by the

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Colleen T. Sealander, Esq.

Alva Smith, Esq.

May 29, 1996

Page 4

NRSC. A brief description of the Committee's compliance program will, we believe, establish to the Commission's satisfaction that there is no reason to believe that such de minimis issues will recur in the future.

Once an event sponsor has been identified, the Committee's Director of Compliance or her staff calendar the event, and then contact the sponsor and supply him or her with an "Event Guidelines" memorandum explaining the Committee's policies, along with a synopsis of the key fundraising rules. We include these materials, which were developed in [October] of 1995 and are distributed to all authorized fundraisers and event sponsors, for the Commission's reference.

The guidelines make clear, in bold and capitalized letters, that invitations and solicitations are not to be written on corporate letterhead or returned to corporate facilities. They also describe the necessary disclaimers that must be provided. Further, the guidelines note in bold print that all written materials used in connection with a fundraiser must be approved by the Director before printing will be authorized or the materials are distributed.

The Committee and its predecessor campaign committees have always taken compliance matters seriously. Since Congressman Torricelli's announcement of his candidacy for the U.S. Senate, the Committee has implemented one of the most stringent compliance programs of which we are aware. This program is designed to insure the Committee's full compliance with the FECA and the Commission's rules, and to the extent practicable, the compliance of those with whom the Committee conducts fundraising activities.

The Committee's compliance program is run on a day-to-day basis by three full-time Committee staffpersons based in New Jersey, where the majority of the Committee's fundraisers are held. The Committee employs a full-time Director of Compliance with years experience in the FEC's rules to oversee the compliance program and staff. Staff has been trained with respect to those rules. Compliance staff is also authorized to contact FEC directly to discuss any compliance questions, and makes frequent use of that service. (It is anticipated that the compliance staff will be enlarged as the general election approaches.)

The Director also has available to her the regular services of outside counsel experienced in federal and state election matters, including campaign finance issues. The Director routinely consults with counsel on any complicated or unusual compliance issues that are not directly addressed by the Commission's guidance materials.

Unfortunately, it appears that the event sponsor did not receive a copy of these guidelines. As a consequence, the solicitation materials were not submitted to the Director

97043772968

Colleen T. Sealander, Esq.

Alva Smith, Esq.

May 29, 1996

Page 5

of Compliance by Mr. Jones. Because the event in question was held in Washington, D.C. by an individual who has not previously worked with the Committee, it appears that the New Jersey-based compliance staff was not aware of the event before it occurred. Lacking this information, compliance staff was unaware of its need to contact Mr. Jones and review materials in connection with his event.

Indeed, had the materials been submitted to the Committee, the Director would have instructed Mr. Jones to change the address for returning contributions to the Committee's principal office, and to add the "paid for & authorized by" disclaimer and notice of non-deductibility to the invitation.

The Committee is reviewing its procedures to insure that no future event evades compliance review in this way. Effective May 1, 1996, the Director must now be notified of all fundraising events proposed by staff and/or fundraising consultants so that compliance materials can be sent out to all prospective sponsors immediately, even before final commitments to host an event are made.

The advent and revision of several of the Commission's rules in the middle of the peak fundraising season for this fall's elections, including its rules on corporate facilitation of campaign fundraising, has made the Committee's compliance program all the more important. In this case, the new rules became effective on March 13, 1996, after the preliminary groundwork for this event was laid and only eleven days before the invitations were mailed, and their newness may indeed have been the reason the event sponsor was not aware of the new prohibition on returning contribution checks to a corporation.

We believe that those interested in supporting federal campaigns, especially laypersons and fundraising novices, may not be fully aware of the impact of the recent changes, which are very detailed and somewhat complicated. Many individuals are only now becoming aware of their impact on fundraising techniques.

As a consequence, the Committee is fully aware of the need for it to carefully supervise and instruct those sponsoring fundraising events for the Committee's benefit to insure compliance. Unfortunately, in this one isolated instance, Mr. Jones was a first-time event sponsor for the Committee who was not familiar with the latest rule changes, had not had occasion in the past to work with the Committee's compliance staff, and consequently

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Colleen T. Sealander, Esq.
Alva Smith, Esq.
May 29, 1996
Page 6

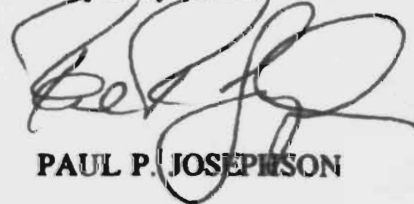
produced his own solicitation materials without the prior approval of the Committee's compliance director.¹

In light of the isolated nature of this occurrence, the insubstantial amount of the contributions involved, the de minimis irregularities, and the highly unlikely possibility of a future recurrence based on the Committee's compliance program, the NRSC's allegations of violations of the breath and scope of those established in the Prudential matter are baseless.

We believe that the compliance program outlined above assures the Commission that the two relatively minor irregularities with respect to the April 24 event will not occur in the future, and are not the basis for pursuing violations of the FECA.

The Committee welcomes the opportunity to discuss the Committee's compliance efforts, the factual issues raised in the complaint, or resolution of this MUR with the Commission further. Kindly contact the undersigned in any of these regards.

Very truly yours,



PAUL P. JOSEPHSON

encl.

¹ The Committee is prepared, if so requested, to produce all solicitation materials used in connection with the Committee's fundraising activities to demonstrate its otherwise perfect record.

97043772970

STATEMENT OF DESIGNATION OF COUNSEL

MUR 1352

NAME OF COUNSEL: Paul P. Josephson, Esq.

FIRM: Sills Cummins Zuckerman Radin

Tischman Epstein & Gross, PA
ADDRESS: One Riverfront Plaza

Newark, NJ 07102-5400

TELEPHONE: (201) 643-7000

FAX: (201) 643-6500

The above-named individual is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

5/25/96

Date

Maria M. Lucette

Signature

RESPONDENT'S NAME: Torrice/lli for U.S. Senate, Inc.

ADDRESS: P.O. Box 594

New Brunswick, NJ 088903

TELEPHONE: HOME (8)

BUSINESS (908) 249-0800

97043772971

EVENT GUIDELINES

Individuals may volunteer to hold a reception for a candidate, a fundraising party or some other type of campaign-related event in their homes or in a church or community room. An individual may spend up to \$1,000, per candidate, per election, for food, beverage and invitations for the event without making a contribution. (A husband and wife may together spend up to \$2,000 per candidate, per election.) Any amount spent in excess of \$1,000, however, must be reported by the campaign as an in-kind contribution.

If an individual co-hosts an event held in someone else's home, any expenses paid by the nonresident co-host are considered contributions to the campaign and must be reported as in-kind contributions.

NO INVITATION OR LETTER REGARDING FUNDRAISING FOR THE CAMPAIGN IS PERMITTED BY LAW TO BE WRITTEN ON CORPORATE LETTERHEAD OR RETURNED TO CORPORATE FACILITIES.

CORPORATE/UNION FACILITIES

An employee, stockholder or member of a corporation or labor union may use the organization's facilities for volunteer work, subject to the rules and practices of the corporation or union. For example, an employee may use an office phone to make calls that pertain to political volunteer work. If the volunteer activity is limited to "incidental use" of the facilities, one hour a week or four hours a month, the volunteer does not have to reimburse the organization for use of the facilities (only for any increased overhead or operating costs).

When the use of the facilities exceeds "incidental use," the volunteer must reimburse the organization the usual and normal rental fee within a commercially reasonable time.

If you send out more than 100 letters of invitation, or printed invitations, an authorization notice must appear on the invitation. If the invitation has several pieces, i.e., a response card, response envelope and invitation, the notice need appear on one item only (for example, the response card). If the campaign pays for the invitation, the notice must read the communication was *Paid for by Torricelli for U.S. Senate, Inc.* If the invitation is paid for by the host of the event, the notice must read *Paid for by XXX and authorized by Torricelli for U.S. Senate, Inc.*

**** Please call Torricelli's Director of Compliance, Gioia Lucente, at 908-249-0800 (phone) with any questions regarding Federal Election Commission regulations. In addition, please fax a copy of your letter of invitation or printed invitation to Gioia at 908-249-4146 (fax) for authorization prior to mailing or distribution.**

All written materials for fundraisers need to be approved by Gioia Lucente prior to distribution. Thank you again for your support.

97043772972

**FEDERAL ELECTION COMMISSION LAWS
REGARDING
FEDERAL CAMPAIGN CONTRIBUTIONS**

PLEASE READ ALL OF THE FOLLOWING CAREFULLY

1. Please make all checks payable to Terricelli for U.S. Senate, Inc. Please mail checks to P.O. Box 549, New Brunswick, NJ 08903.

2. Corporate checks are prohibited.

3. Cash contributions are prohibited.

4. The contribution limits for one calendar year are as follows:

Individuals can contribute up to \$1,000 for the Primary Election,
and

Individuals can contribute up to \$1,000 for the General Election,
Total \$2,000 per election cycle, or \$4,000 per couple election cycle.

General Election Contributions can be made before the Primary Date.

Political Action Committees can contribute up to \$5,000 for the Primary Election,
and

Political Action Committees can contribute up to \$5,000 for the General Election,
Total \$10,000 per election cycle.

An Election Cycle is the period beginning the day after the previous general election and ending on the day of the next general election (i.e., the period including both primary and general elections).

5. Primary and/or General must be written on the check. (On a check for \$1,000 primary must be written, on a check for anything over \$1,000, primary/general must be written.)

6. Joint contributions can be written from one account as long as both spouses sign the check.

7. Federal law requires political committees to report the name, mailing address, occupation and name of employer for each individual whose contributions aggregate in excess of \$200 in a calendar year.

97043772973

MAY 16 '96 03:59PM

HUNGERFORD Printers

1228 NINTH STREET, N.W. WASHINGTON, D.C. 20001

TEL: (202) 288-6550
FAX: (202) 785-8232

To: Pat Torricelli for U.S. Senate, Inc.
1000 Connecticut Avenue, NW, #600
Washington, DC 20036

Date: March 29, 1996

#10962

500 Invitations, Carrier and Reply Envelopes & Reply Card \$445.00

Sales Tax 25.39

\$470.59

LAWSON'S GOURMET CATERING
P O Box 27716
Washington, DC 20038-7716



(202) 789-8808

TONYA, INC.
1800 Vermont Avenue, NW
Suite 500
Washington DC 20005

Suite 500

S
K
I
P
T
O

S
K
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T
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3:38PM

Wednesday

Theresa Price

289-8100

Net 15 Days

Scott Button

ITEM NO.	DESCRIPTION	QUANTITY	UNIT PRICE	AMOUNT	TAXES	TOTAL
/A0040	Server - \$28.00 Per Hour	2		56.00		56.00
/A005	2 Servers For 5.5 Hours Ea	1		252.96		252.96
/A062	Rental Equipment EVENT #96-105 Flowers	1		184.00		184.00

**PLEASE PAY
FROM THIS INVOICE**

NET INVOICE: 1,571.96
LESS DISCOUNT:
DELIVERY:
SALES TAX:

PLEASE REMIT TO: LAWSON'S GOURMET CATERING
PO BOX 27716, WASHINGTON DC 20038

PLEASE PRINT NAME AND ADDRESS
TOTAL: 1,571.96

ORIGINAL

INVOICE NO.

97443772975

LAWSON'S GOURMET CATERING
P O Box 27716
Washington, DC 20058-7716



(202) 759-8883

TONYA, INC.
1200 Vermont Avenue, NW
Suite 500
Washington DC 20005

Suite 500

SHIP TO

2:30PM

Wednesday

Theresa Price

202-810-1111

Net 30 Days

Scott Bustin

ITEM NO.	DESCRIPTION	QUANTITY ORDERED	QUANTITY BACK ORDER	QUANTITY SHIPPED	UNIT PRICE	EXTENDED AMOUNT
	1:00PM KT \ 5:00PM \ 5:00PM GT					
/H122	Cheese Display	40	0	40	5.50	220.00
/C8	Cracker & Baguettes **CHINA**	40	0	40	.00	.00
/H814	Blk Chix on Cucumber Roun **CHINA**	EA 50	0	50	1.50	75.00
/H823	Tomato & Mozz Bruschetta **CHINA**	EA 50	0	50	1.00	50.00
/H884	Mini Potatoes w/Cheese & Sund wrapped in Alus Pan	EA 100	0	100	.65	65.00
/H177	Beef Gate w/Peanut Sauce **CHINA**	EA 50	0	50	1.65	82.50
/H829	Mini Embury-Orig Muffins w **CHINA**	EA 50	0	50	1.25	62.50
/L828	Sliced Fruit Display **CHINA**	PP 50	0	50	4.20	212.00
/L888	Assorted Bars **CHINA**	1.50 75	0	75	2.50	187.50
PLEASE REMIT TO: LAWSON'S GOURMET CATERING PO BOX 27716, WASHINGTON, DC 20058						
CONTINUED						

TOTAL

INVOICE NO.

9:17 AM 3/7/2004

LAWSON'S GOURMET CATERING
P O Box 27716
Washington, DC 20038-7716

LAWSON'S

(202) 789-0428

TONYA, INC.
1888 Vermont Avenue, NW
Suite 500
Washington DC 20005

Suite 500

INVOICE

ITEM NO.

1:30PM KT 5:00PM

QUANTITY
ORDERED

Cheese Display
Cracker & Baguettes
CHINA

238.00

Bik Chix on Cucumber Roun
CHINA

75.00

Tosato & Mozz Bruschetta
CHINA

58.00

Mini Potatoes w/ Cheese &
Send Wrapped in Alum Pan

85.00

Beef Bate w/ Peanut Sauce
CHINA

1.00

Mini Cranberry-Orange Muffins w/
CHINA

1.00

Sliced Fruit Display
CHINA

215.00

Assorted Bars
CHINA

1.00

PLEASE REMIT TO: LAWSON'S GOURMET CATERING
PO BOX 27716, WASHINGTON DC 20038
CONTINUED

TOTAL

INVOICE NO.

9 7 0 4 3 7 7 2 9 7 8

TORRICELLI FOR U.S. SENATE, INC.

P.O. BOX 169
SCOTT WAGENSACK, NJ 07008

BRIDGE VIEW BANK
ENGLEWOOD CLIFFS, NJ 07632
66-716-812

1611

4/30/96

PAY TO THE
ORDER OF

LAWSON

\$ 1,751.18

One Thousand Seven Hundred Fifty-One and 18/100 ***** DOLLARS

LAWSON

P.O. Box 23715

Washington, DC 20015-7716

MEMO

Shirley M. Lente

REC-15 11P 002120?1670: #303759-20

TORRICELLI FOR U.S. SENATE, INC.

P.O. BOX 1867
SOUTH HACKENSACK, NJ 07606

BRIDGE VIEW BANK
ENGLEWOOD CLIFFS, NJ 07632
95-718-212

4/30/96

PAY TO THE
ORDER OF

Hungerford Printers

\$470.59

Four Hundred Seventy and 59/100

DOLLARS

Hungerford Printers
1228 Ninth Street, NW
Washington, DC 20001

MEMO

Invitation printing

Mia N. Lucette

⑈001609⑈ ⑆021207167⑆ ⑆303759-2⑈

TORRICELLI FOR U.S. SENATE, INC.

Hungerford Printers
Finance: Invitations

4/30/96

1609
470.59

704372979

Bridge View Bank: Invitation printing

470.59

TORRICELLI FOR U.S. SENATE, INC.

Hungerford Printers
Finance: Invitations

4/30/96

1609
470.59

Bridge View Bank Invitation printing

470.59

LAW OFFICES
GINSBURG, FELDMAN AND BRESS

CHARTERED

1250 CONNECTICUT AVENUE, N.W.
WASHINGTON, D.C. 20036-2600

(202) 637-9000

FAX (202) 637-9195

TELEX 4938614 CABLE "LEGIS"

contact@gfbaw.com

8201 GREENSBORO DRIVE

McLEAN, VA 22102

(703) 821-3610

FAX (703) 821-7880

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*NOT ADMITTED IN D.C.

ATTORNEY CLIENT PRIVILEGED

June 7, 1996

VIA MESSENGER

Colleen Sealander, Esq.
Alva Smith, Esq.
Federal Election Commission
Office of General Counsel
Central Enforcement Docket
999 E Street N.W.
Rm. 657
Washington, D.C. 20463

Re: MUR 4352

Dear Ms. Sealander:

Enclosed please find a corrected copy of the letter we delivered to you yesterday regarding MUR 4352. We have made a couple of nonsubstantive changes and request that you replace our timely filed letter with this version. A redline of the two pages that were affected is also enclosed for your convenience.

We thank you for your cooperation and look forward to your response.

Sincerely,


N.J. Cooper

Enclosures

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

JUN 7 2 00 PM '96

97043772900

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WASHINGTON, D.C. 20036-2600

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THOMAS A. HART, JR.
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SENIOR COUNSEL
DAVID GINSBURG
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W. ROSENTHAL

DAVID G. BRESS 11/08/1976

LUANN S. SINCLAIR
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ALLEN K. HALPERIN
JOHN E. SCHWARZ

*NOT ADMITTED IN D.C.

WRITER'S DIRECT DIAL NUMBER

ATTORNEY CLIENT PRIVILEGED

June 7, 1996

VIA MESSENGER

Colleen Sealander, Esq.
Alva Smith, Esq.
Federal Election Commission
Office of General Counsel
Central Enforcement Docket
999 E Street N.W.
Rm. 657
Washington, D.C. 20463

Re: MUR 4352

Dear Ms. Sealander:

We represent Mr. Tony Jones and Tonya, Inc., in connection with the above referenced matter. This will respond to your letter received by our clients on May 22, 1996 alleging that our clients have violated the Federal Election Campaign Act of 1971.

This matter arose from the May 1, 1996, complaint filed by the National Republican Senatorial Committee ("NRSC"). In that complaint, the NRSC asserts that Congressman Bob Torricelli and his campaign for the United States Senate have illegally profited from an unlawful fundraising event held at Tonya, Inc. Three separate violations are alleged citing: (1) the corporate contribution rules under 2 U.S.C. § 441b(a); 2 U.S.C., (2) the disclosure provisions under § 441d(a) with the penalty authorized under 2 U.S.C. § 437(a) (6) (A), and (3) the disclosure requirement and penalty under Internal Revenue Code sections 6613 and 6710.

It is our contention that the allegations are without merit and no further action is warranted by the Federal Election Commission. For convenience we will address each allegation separately.

97043772931

Colleen T. Sealander, Esq.
Alva Smith, Esq.
June 7, 1996
Page 2

I. 2 U.S.C. § 441b(a) - Corporate Contributions

The NRSC alleges that Congressman Torricelli's Senate campaign violated 2 U.S.C. § 441b(a). That section provides in pertinent part,

"...It is unlawful for any national bank or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to political office..., or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section..."

Additionally, 11 C.F.R. § 114.2(f) provides that corporations are prohibited from "facilitating the making of contributions to candidates or political committees". Facilitation is defined as, "... using corporate resources or facilities to engage in fundraising activities in connection with any federal election..."

Although the ~~compliant~~ complaint is vague, the NRSC appears to allege that 2 U.S.C. § 441b(a) and 11 C.F.R. § 114.2(f) were violated because the event was held at Tonya, Inc.'s corporate offices and Tonya, Inc.'s resources, such as an employee and mailing services, were used to cover a small part of the cost of the fundraiser.

As an exemption to the facilitation provisions, 11 C.F.R. § 114.2(f) (2) (D) provides a safe harbor whereby facilitation does not occur if corporate meeting rooms are customarily made available to clubs, civic, or community organizations. Further 11 C.F.R. § 114.13 adds that the meeting rooms must be made available to any candidate or political committee upon request on the same terms given to other groups. Tonya, Inc. customarily uses its offices for fundraising events for state and federal political candidates, meetings of civic organizations, and nonprofit organizations at no charge. Holding the Torricelli fundraiser at Tonya, Inc.'s offices was consistent with Tonya's normal practices which fall within the parameters of 11 C.F.R. §§ 114.2(f) (2) (D) and 114.13.

Furthermore, use of Tonya, Inc.'s resources (i.e., employees, postage, etc...) also did not rise to the level of facilitation. There are certain exemptions to the facilitation rules under 11 C.F.R. § 114.2(f) whereby corporate offices and resources can be used and will not be considered as facilitating the making of a contribution. Generally an individual volunteer can use a

9704372932

Colleen T. Sealander, Esq.
Alva Smith, Esq.
June 7, 1996
Page 3

corporate organization's facilities as provided under 11 C.F.R. 114.9(a) and (c). 11 C.F.R. 114.9(a) provides in pertinent part:

"...Stockholders and employees of the corporation may, subject to the rules and practices of the corporation, make occasional, isolated, or incidental use of facilities of a corporation for individual volunteer activity in connection with a Federal election and will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased..."

Moreover, 11 C.F.R. § 114.9(c) provides that the individual must reimburse the corporation "within a commercially reasonable time for the normal and usual charge" for producing materials in connection with a Federal election.

In this case, Mr. Tony Jones' and Tonya, Inc.'s activities fall within the exemptions provided under 11 C.F.R. § 114.9(a) and (c). The Torricelli Senate campaign committee assumed full responsibility for the payment of the outside vendors for food and printing costs.^{1/} Thus there was no reimbursement as required under 11 C.F.R. § 114.9(c).

Moreover, Mr. Jones' use of Tonya, Inc. should be considered occasional, isolated, and incidental under the safe harbor of 11 C.F.R. 114.9(a)(iii) since Mr. Jones did not spend more than one hour per week or four hours per month on the Torricelli fundraiser. Finally, overhead costs for Tonya, Inc. did not increase as a result of Torricelli fundraiser. Telephone costs, and photocopying costs were nominal at best. Thus Mr. Jones was not required to reimburse Tonya, Inc.

The fundraiser was a small affair hosted by fifteen individuals, including Mr. Jones. There were 500 printed invitations but only 450 mailed or given out by hand. The individuals hosts, excluding Mr. Jones, received at a minimum 150 of the invitations. It is probable that the number of invitations distributed by hand was as high as 250 invitations. Thus, of the 450 invitations, Mr. Jones spent no more than between \$64.00 and \$96.00 on postage.

^{1/}Copies of invoices and checks written by the Torricelli campaign are attached for your convenience.

Colleen T. Sealander, Esq.
Alva Smith, Esq.
June 7, 1996
Page 4

In addition, a number of Mr Jones' allocation of invitations were personally handed to individuals, thus the cost of postage would have, in fact, been less than the above estimate.

At the time of the complaint, Mr. Jones was prepared to reimburse Tonya, Inc. for this nominal postage expense. Upon receipt and referral to counsel, Mr. Jones was advised by counsel not to render payment until counsel could review the matter. Mr. Jones, now on the advice of counsel, has paid to Tonya, Inc., the sum of \$96.00, which is projected to be in excess of the amount that was actually spent on such postage.^{2/} This reimbursement was made in a commercially reasonable time in accordance with 11 C.F.R. 114.9(a)(2).

As for the other volunteer, Ms. Valerie Brown, her work was also occasional, isolated, and incidental as provided under 11 C.F.R. § 114.9(a)(1)(i). Ms. Brown volunteered her services to the fundraiser with most of the work done before work, during lunch, or after working hours. Moreover, Ms. Brown did not spend more than one hour per week or four hours per month on the fundraising activity.^{3/} Ms. Tonya Jones, daughter of Mr. Tony Jones, spent only three hours on the event, greeting guests at the entrance.

The activities of Tonya, Inc. and its employees, were not designed to solicit corporate clients. The invitees were invited as personal and long time business associates of the fifteen hosts, and not as firm clients or vendors. Thus, the activities were within the scope of the exemption under 11 C.F.R. § 114.9(a)

II. 2 U.S.C. § 441d(a) - Disclosure Provision

The NRSC also alleges that Congressman Torricelli's Senate campaign violated 2 U.S.C. § 441d(a) which provides that any person who makes an expenditure for the purpose of soliciting any contribution such communication shall clearly state that it has been paid for by "...such authorized political committee..."

^{2/}These facts are included in Mr. Jones' affidavit which is attached to this letter.

^{3/}These facts are included in Ms. Brown's affidavit which is attached to this letter.

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Alva Smith, Esq.
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The penalties for violating such provision are provided under 2 U.S.C. § 437g. The Commission has at its disposal a variety of remedies but it must first attempt to correct or prevent such violation by informal methods as provided under 2 U.S.C. § 437g(a)(4)(A)(i) before asserting civil penalties under 2 U.S.C. § 437g(a)(6)(A).

The disclosure language was inadvertently left out of the fundraising material. This was an isolated incident and the necessary steps have been taken to prevent this from happening again. We are confident, in as much as the candidate was present, that those who attended the fundraiser were aware that the fundraiser was authorized and paid for by the Torricelli Senate campaign. For those who were invited, but neither attended nor contributed, we note that these invitees were sophisticated in the business and political world and would be fully aware that the fundraiser was authorized and paid for by the Torricelli Senate campaign.

The General Counsel of Tonya, Inc., has counseled Tonya, Inc. and its principals with regard to the Federal Election Commission rules in this area. Tonya, Inc. has agreed to memorialize its understanding of these rules in a corporate policy statement. In addition, Tonya, Inc. has engaged Robert Bauer, Esquire of Perkins Coie, an expert in election law, to give a two hour seminar for the principals.

III. 26 U.S.C. § 6113 - I.R.S. Disclosure Provision

As its final contention, the NRSC asserts that Congressman Torricelli's Senate campaign violated 26 U.S.C. § 6113 which provides that each fundraising solicitation by or on behalf of an organization shall contain an express statement that contributions or gifts to such organizations are not deductible as charitable contributions.

26 U.S.C. § 6710 imposes a penalty of \$1,000 for each day on which such failure under 26 U.S.C. § 6113 occurs, with a maximum penalty of \$10,000. However, no penalty shall be imposed if the failure is shown to be due to a reasonable cause.

Although we realize that this is a matter that is outside the jurisdiction of the Federal Election Commission, as it is in the province of the Internal Revenue Service, we ask that the Commission consider the following as a reasonable cause as to the

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Colleen T. Sealander, Esq.
Alva Smith, Esq.
June 7, 1996
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failure to include the disclosure requirement under the Internal Revenue Code in the invitation.

As with the disclosure requirement under 2 U.S.C. § 441d(a), this disclaimer that the contributions were not deductible was inadvertently left out of the invitation. This was a small fundraiser. Our records indicate that approximately \$12,000 was raised from 22 contributors. The following list demonstrates the contribution made by each person or PAC. The PAC contributions were not the result of a general solicitation made to PACs, but rather as a result of invitations to personal friends and resulted in fewer than three PAC donations. If the Commission feels it is appropriate we will be happy to share the actual names of the contributors.

<u>Name</u>	<u>Amount</u>
1.	\$500.00
2.	\$1,000.00
3.	\$1,000.00
4.	\$50.00
5.	\$250.00
6.	\$500.00
7.	\$500.00
8.	\$1,000.00
9.	\$1,000.00
10.	\$100.00
11.	\$200.00
12.	\$250.00
13.	\$500.00
14.	\$500.00
15.	\$500.00
16.	\$500.00
17.	\$500.00
18.	\$500.00
19.	\$500.00
20.	\$500.00
21.	\$500.00
22.	\$500.00
TOTAL	\$11,850.00

The number of people who attended the fundraiser did not exceed 20, including the hosts and the guests, the guests' spouses and staff. Those invited were professionals, entrepreneurs, and others who are sophisticated in the business and political world and would be fully aware that their contributions were not tax deductible.

97043772986

Colleen T. Sealander, Esq.
Alva Smith, Esq.
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Page 7

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In conclusion, with \$11,850 in contributions raised, the Torricelli fundraiser was a small affair. To the extent that there were violations of the Federal Election Campaign Act of 1971 by our clients, they were de minimis. As previously mentioned, we have taken steps, such as a seminar in federal election law, to ensure that there will be no violations in future fundraising activities.

Mr. Tony Jones is a minority who feels strongly that African-American's should help defray the costs of political campaigns by making legal contributions. In our Republic, the democratic form of government depends on both the participation of citizens in the political process and the willingness of citizens to contribute to the cost of the political process. When ordinary citizens make well-intentioned efforts to raise funds, they should not become the subject of organized "dirty tricks" sponsored by a national political party for partisan political purposes. The facts of the instant complaint include the issuance of a libelous press release intended to embarrass the campaign of Congressman Torricelli and the use of a camera crew to intimidate the guests attending the event.

If one could assume, without stretching credulity, that the actions of the NRSC were altruistic and designed to assure compliance with the law, one might conclude that its complaint in this matter might prove helpful. However, they cannot gainsay that the complaint was initiated to use the Federal Election Commission as forum to support the campaign of a Republican candidate in New Jersey. NRSC designed this complaint to harass ordinary citizens who are willing to participate in the body politic. It is precisely this type of misuse of important institutions for partisan political purposes that completely turn off the ordinary American citizen, regardless of Party, from participating in the political process.

It is ironic that the fees and costs of the parties to this proceeding, including the staff of the Commission will be well in excess of the money raised by the event. Even as we agree to the remedial steps outlined above, we trust that the Commission will not only dismiss the complaint but use it as an opportunity, during the silly season of this round of elections, to nip in the bud the use of the Commission for partisan political purposes as an adjunct to campaign committees for political parties.

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GINSBURG, FELDMAN AND BRESS
CHARTERED

Colleen T. Sealander, Esq.
Alva Smith, Esq.
June 7, 1996
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We will be pleased to discuss this response with you at your convenience.

Sincerely,



A.J. Cooper

Enclosures

97043772938

LAWSON'S GOURMET CATERING
P O Box 27716
Washington, DC 20038-7716

LAWSON'S

(202) 789-0500

TONYA, INC.
1800 Vermont Avenue, NW
Suite 500
Washington, DC 20005

Suite 500

ITEM NO.

1:00PM KT \ 1:00PM \ 5:00PM ET

QUANTITY

ORDERED

ORDERED

14122

Cheese Display
Cracker & Baguettes
each

235.00

14114

Blk Chix on Cucumber Ranch
each

14053

Tosato & Moss Bruschetta
each

14000

Mini Potatoes w/ Cheese &
Bend Wrapped in Alus Pan

85.00

14177

Beef Bate w/ Peanut Sauce
each

14029

Mini Creamy-Org Muffins w/
each

14225

Sliced Fruit Display
each

14006

Assorted Bats
each

TOTAL

15.00

INVOICE NO.

INVOICE NO.

97043772909

97043772900

010

S.C.2.R.T.E.C #4

05/30/96 THU 16:51 FAX 201 643 6500

1511

4/30/96

8 001,751.18

0001611# 10212071670 #303759#20

MEMO

LAWSON
P.O. Box 27716
Washington, DC 20038-7716

One Thousand Seven Hundred Fifty-One and 18/100

DOLLARS

PAY TO THE ORDER OF LAWSON

TORRICELLI FOR U.S. SENATE, INC.
P.O. Box 458
SOUTH HACKENSACK, NJ 07603

BRIDGE VIEW BANK
BRIDGEWOOD BRANCH, NJ 07602
66-710-012

Lidia M. Lucite

TORRICELLI FOR U.S. SENATE, INC.

SOUTH HACKENSACK, NJ 07071

4/30/96

S**470.59

PAY TO THE
ORDER OF

Hungerford Printers

Four Hundred Seventy and 59/100

DOLLAR

Hungerford Printers
1228 Ninth Street, NW
Washington, DC 20001

MEMO

Invitation printing

Maria N. Truitt

⑈001609⑈ ⑆021207167⑆ ⑆303759-2⑆

TORRICELLI FOR U.S. SENATE, INC.

Hungerford Printers
Finance: Invitations

4/30/96

160!
470.59

Bridge View Bank Invitation printing

470.59

TORRICELLI FOR U.S. SENATE, INC.

Hungerford Printers
Finance: Invitations

4/30/96

160!
470.59

Bridge View Bank Invitation printing

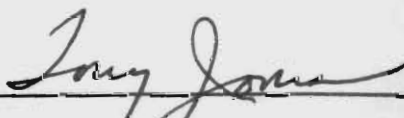
470.59

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AFFIDAVIT OF TONY JONES

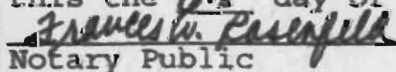
I, Tony Jones, being first duly sworn, hereby state as follows:

1. My name is Tony Jones.
2. I am a principal in the corporation, Tonya Inc.
3. In connection with the Torricelli fundraiser held on April 24, 1996, I did not spend more than one hour per week or four hours per month on such fundraiser.
4. I paid Tonya Inc. \$96.00 as a reimbursement for postage expenses incurred in connection with the Torricelli fundraiser.
5. All of my work in connection with the Torricelli fundraiser was undertaken on a volunteer basis.
6. The Torricelli fundraiser did not increase the overhead costs of Tonya Inc., and telephone and xerox costs were nominal.
7. My daughter is Tonya Jones. She volunteered 3 hours to the Torricelli fundraiser, greeting guests at the entrance to the event. Ms. Jones, a full-time student, periodically works on a part-time basis for Tonya, Inc.



Tony Jones

Sworn to and subscribed before me
this the 6th day of June, 1996.


Notary Public

My Commission Expires: 2/14/99

GINSBURG,
FELDMAN
AND BRESS
CHARTERED

1250 Connecticut Ave. NW
Washington, D.C. 20036

(202) 637 9000

97043172992

AFFIDAVIT OF VALERIE BROWN

I, Valerie Brown, being first duly sworn, hereby state as follows:

1. My name is Valerie Brown
2. I am employed by Tonya Inc.
3. I was a volunteer in connection with the Torricelli fundraiser held on April 24, 1996. I did not spend more than one hour per week or four hours per month on such fundraiser.
4. All of my work in connection with the Torricelli fundraiser was undertaken on a volunteer basis and was not a part of my employment activities with Tonya Inc.
5. I was not required, coerced or ordered to volunteer my time in connection with the Torricelli fundraiser.

Valerie Brown

Valerie Brown

Sworn to and subscribed before me
this the 6th day of June, 1996.

Francis W. Rosenfeld

Notary Public

My Commission Expires: 7/14/99

GINSBURG,
FELDMAN
AND BRESS
CHARTERED

1250 Connecticut Ave. NW
Washington, D.C. 20036

(202) 637 9000

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RECEIVED
FEDERAL ELECTION
COMMISSION
SECRETARIAT

Nov 12 10 06 AM '96

FEDERAL ELECTION COMMISSION
999 E Street, NW
Washington, D.C. 20463

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

MUR No. 4352
Date Activated: July 19, 1996
Date Complaint Received: May 1, 1996
Date of Notification to Respondents:
May 7, 1996
Staff Member: Tracey L. Ligon

COMPLAINANT: National Republican Senatorial Committee

RESPONDENTS: Tonya, Inc., and Anthony Jones, Registered Agent

Anthony Jones

Torricelli for U.S. Senate, Inc. and
Stephen J. Moses, as Treasurer

The Honorable Robert Torricelli

RELEVANT STATUTES: 2 U.S.C. § 441b
2 U.S.C. § 441c
2 U.S.C. § 441d
11 C.F.R. §§ 110.6 and 114

INTERNAL REPORTS CHECKED: Contributor Index

FEDERAL AGENCIES CHECKED: None

I. GENERATION OF MATTER

This matter was initiated by a signed sworn complaint filed with the Federal Election Commission ("the Commission") by the National Republican Senatorial

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Committee on May 1, 1996. The complaint alleges that Congressman Bob Torricelli and the Torricelli for U.S. Senate, Inc. committee and Stephen J. Moses, as treasurer ("the Torricelli committee"), have illegally profited from an unlawful corporate fundraising event held at TONYA, Inc.,¹ in violation of 2 U.S.C. §§ 441b(a) and 441d(a).² The complaint urges the Commission to require the Torricelli Committee to refund the money unlawfully raised at the corporate event.

II. FACTUAL AND LEGAL ANALYSIS

A. The Law

I. 2 U.S.C. § 441b

The Federal Election Campaign Act of 1971, as amended (the "Act"), prohibits corporations from making contributions in connection with Federal elections or for any candidate, political committee, or other person knowingly to accept or receive any prohibited contribution. 2 U.S.C. § 441b(a). Contributions include any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or

¹ Tonya, Inc. is an MBE/DBE (Minority and disadvantaged business) training, technical assistance and information management contractor, and has a special interest in Advanced Traveler Information Systems. According to information ascertained via the internet, as of April 1, 1996, Tonya, Inc. was providing technical, management and administrative support under contract to the Federal Highway Administration of the Department of Transportation and thus appears to be a government contractor. Tonya, Inc. does not maintain a federally registered PAC.

² The complaint also alleges that the respondents violated 26 U.S.C. §§ 6113 and 6710 of the Internal Revenue Code. However, we express no opinion in this regard as this issue is outside of the Commission's jurisdiction.

anything of value made to any candidate for Federal office. 2 U.S.C. § 441b(b)(2); 11

C.F.R. § 114.1(a)(1).³

In addition, corporations, including officers, directors or other representatives acting as agents of corporations, are prohibited from facilitating the making of contributions to candidates or political committees, other than to the separate segregated funds of the corporations. 11 C.F.R. § 114.2(f). Facilitation means using corporate resources or facilities to engage in fundraising activities in connection with any federal election. Examples of facilitating the making of contributions include fundraising activities by corporations which involve 1) officials or employees of the corporation ordering or directing subordinates or support staff to plan, organize or carry out the fundraising project as a part of their work responsibilities using corporate or labor organization resources unless the corporation receives advance payment for the fair market value of such services; 2) failure to reimburse a corporation within a commercially reasonable time for the use of corporate facilities; 3) using a corporate list to solicit contributions in connection with a fundraiser unless the corporation receives advance payment for the fair market value of the list; 4) using meeting rooms that are not customarily made available to clubs, civic or community organizations or other groups; or 5) providing catering or other food services unless the corporation receives advance payment for the fair market value of the services. 11 C.F.R. § 114.2(f)((2)(i)). Other

³ The following discussion regarding corporate activity is based on the newly revised Commission regulations found at 11 C.F.R. 114.1, 114.2, 114.3 and 114.4. The regulations were published in the Federal Register on December 14, 1995 (60 Fed. Reg. 64260). They became effective on March 13, 1996. See 61 Fed. Reg. 10269 (March 13, 1996).

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examples of prohibited facilitation include providing materials for the purpose of transmitting or delivering contributions, such as stamps, envelopes addressed to a candidate or political committee (other than the corporation's own separate segregated fund), or providing similar items which would assist in transmitting or delivering contributions. 11 C.F.R. § 114.2(f)(2)(ii).

However, the Act sets forth some permissible bounds of corporate activity in connection with Federal elections. For example, employees of a corporation may make occasional, isolated, or incidental use of corporate facilities, which generally means activity which does not exceed one hour per week or four hours per month, for individual volunteer activity in connection with a federal election. Such employees will be required to reimburse the corporation only to the extent that the overhead or operating costs of the corporation are increased. 11 C.F.R. § 114.9(a). Also, a corporation which customarily makes its meeting rooms available to clubs, civic or community organizations, or other groups may make such facilities available to a political committee or candidate if the meeting rooms are made available to any candidate or political committee upon request and on the same terms given to other groups using the meeting rooms. 11 C.F.R. § 114.13.

In addition, a corporation may make certain specified kinds of communications in connection with federal elections depending on whether the audience is the corporation's restricted class -- its stockholders and executive or administrative personnel and their families, the corporation's employees (including the corporation's restricted class) and their families, or the general public. See 11 C.F.R. §§ 114.3 and 114.4.

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ii. 2 U.S.C. § 441c

The Act prohibits a person, which includes a corporation, ~~see~~ 2 U.S.C. § 431(11), who enters into any contract with the United States or any department or agency thereof for the rendition of personal services, if payment for the performance of such contract is to be made in whole or in part from funds appropriated by the Congress, at any time between the commencement of negotiations for and the later of the completion of performance under or the termination of negotiations for, such contract to make any contribution of money or other thing of value to any political party, committee, or candidate for public office. 2 U.S.C. § 441c.

iii. 2 U.S.C. § 441d

Pursuant to 2 U.S.C. § 441d(a) and 11 C.F.R. § 110.11(a), whenever any person makes an expenditure for the purpose of financing a communication that expressly advocates the election or defeat of a clearly identified candidate, or that solicits any contribution, through any broadcasting station, newspaper, magazine, outdoor advertising facility, poster, yard sign, direct mailing, or any other form of general public political advertising, such communication, if paid for and authorized by a candidate, an authorized committee of a candidate, or its agents, shall clearly state that the communication has been paid for by the authorized political committee. If such communication is paid for by other persons but authorized by a candidate, an authorized committee of a candidate, or an agent thereof, the communication shall clearly state that it is paid for by such other person and, is authorized by such candidate, authorized committee or agent. If such communication is not authorized by a candidate, an authorized committee of a candidate,

or an agent thereof, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's committee. Such person is not required to place the disclaimer on the front face or page of any such material, as long as a disclaimer appears within the communication, except on communication, such as billboards, that contain only a front face. 11 C.F.R. § 110.11(a)(1).

B. Discussion

As noted previously, the complaint alleges that Congressman Bob Torricelli and the Torricelli committee illegally profited from an unlawful corporate fundraising event held at TONYA, Inc. in violation of 2 U.S.C. §§ 441b(a) and 441d(a). Specifically, the complaint alleges that on March 26, 1996, Tonya, Inc. "posted a direct mail fundraising solicitation" to members of the general public on behalf of Congressman Bob Torricelli and the Torricelli committee; that the solicitation indicated that a fundraising event would be held at Tonya, Inc.'s offices; and that on April 24, 1996, Congressman Torricelli attended the fundraising event and accepted contributions that were collected and kept at TONYA, Inc.'s headquarters.

Describing the solicitation, which is attached to the complaint, the complaint notes that the solicitation instructs solicitees to RSVP by calling Valerie Brown, an employee of TONYA, Inc., at TONYA, Inc.'s corporate office, and includes a contribution reply envelope addressed to TONYA, Inc. The complaint alleges that the "Host Committee," which is listed on the solicitation, includes members outside of TONYA, Inc.'s restricted class. In addition, the complaint notes that the solicitation does

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not contain a disclaimer. The complaint further notes that FEC reports filed by the Torricelli committee do not disclose in-kind contributions by Tony Jones for the cost of the March 26, 1996 mailing or a pre-payment to TONYA, Inc. to cover the cost of the fundraiser.

In response to the complaint, citing 11 C.F.R. §§ 114.2(f)(2)(D) and 114.13, respondents TONYA, Inc. and Tony Jones⁴ assert that holding the Torricelli fundraiser at Tonya, Inc.'s corporate offices did not constitute corporate facilitation since Tonya, Inc. customarily uses its offices for fundraising events for state and federal political candidates, meetings of civic organizations, and nonprofit organizations at no charge.

In addition, the respondents assert that the use of Tonya, Inc.'s resources did not rise to the level of corporate facilitation. Specifically, the respondents argue that in this case, Mr. Tony Jones' and Tonya, Inc.'s activities fall within the exemption provided at Section 114.9(a) — permitting the occasional, isolated, or incidental use of corporate facilities for individual volunteer activity and requiring reimbursement of the corporation only to the extent that the overhead or operating costs of the corporation are increased. In support of this argument, Mr. Jones and Valerie Brown assert in affidavits attached to the response that all of their work in connection with the Torricelli fundraiser was undertaken on a volunteer basis and that they did not spend more than one hour per week

⁴ This Office notified "Anthony Jones," registered agent of Tonya, Inc., that the complaint in this matter implicated him and Tonya, Inc. Counsel representing "Tony Jones" and Tonya, Inc. responded to the complaint. Based on counsel's response and the fact that Tony is a commonly used nickname by individuals named Anthony, it appears that Anthony Jones and Tony Jones are the same individual. In an affidavit that accompanied the respondents' response, Tony Jones states that he is a principal of Tonya, Inc.

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or four hours per month on the fundraiser. The respondents indicate that Ms. Tonya Jones, the daughter of Mr. Tony Jones, spent only three hours on the fundraising event, greeting guests at the entrance.

In addition, the respondents explain that the fundraiser was a small affair³ hosted by fifteen individuals, including Mr. Jones; that there were 500 printed invitations but only 450 mailed or given out by hand; and that the Torricelli committee paid the outside vendors for the printing and food costs associated with the fundraiser (vendor invoices and copies of the Committee's disbursement checks are attached to the response). Respondents further assert that Mr. Jones spent no more than between \$64.00 and \$96.00 on postage, and subsequently paid Tonya, Inc. \$96.00 as reimbursement for such postage expenses within a commercially reasonable time in accordance with 11 C.F.R. § 114.9(a)(2). Respondents assert that overhead costs for Tonya, Inc. did not increase as a result of the Torricelli fundraiser -- telephone and photocopying costs were nominal at best. Finally, respondents assert that the invitees were invited as personal and long-time business associates of the fifteen hosts, and not as firm clients or vendors.

Regarding the disclaimer issue, the respondents assert that the disclosure language was inadvertently "left out" of the fundraising material, that this was an isolated incident, and that they have taken steps to ensure that there will be no violations in future fundraising activities. Specifically, the respondents state that Tonya, Inc.'s principals

³ According to Tonya, Inc., the fundraiser yielded an aggregate amount of approximately \$12,000 from 22 contributors. The respondents state that the number of people who attended the fundraiser did not exceed 20, including the hosts and the guests, the guests' spouses and staff.

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have been counseled by the corporation's general counsel with respect to the Commission's disclaimer regulations, and that Tonya Inc. has agreed to memorialize its understanding of the regulations in a corporate policy statement. In addition, the respondents assert that they have engaged an expert in election law to give the respondents a two-hour seminar.

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In response to the complaint, respondents Congressman Torricelli and the Torricelli committee, argue that the campaign event held at Tonya, Inc.'s offices was not unlawful, and that all expenses in connection with the event chargeable to the Committee were in fact paid directly by the Committee (vendor invoices and copies of the Committee's disbursement checks are attached to the response) in conformity with the Commission's new corporate facilitation regulations. The respondents assert that, contrary to the complaint's allegation, the Committee's "most recent reports" do disclose expense disbursements made directly to the outside vendors responsible for the printing of materials and catering associated with the Torricelli fundraiser.⁶

Referring to "the only area of potential concern to the Commission that [they] can perceive," the respondents acknowledge that Tonya Inc.'s address appeared on the contribution reply envelopes and that a disclaimer was not included on the solicitations. However, the respondent Committee "wishes to assure the Commission that these related issues arose from a single, isolated oversight stemming from the inability of the Committee's compliance staff to review and approve (or in this case, disapprove) of these

⁶ Payments by the Committee to the two vendors identified by the respondents as service providers for the Torricelli fundraiser (Hungerford Printers and Lawsons Gourmet Catering) in the amounts of \$470.59 and \$1751.18 were disclosed on the Committee's 12 Day Pre-Primary Report, which was filed by the Committee on May 22, 1996.

materials in advance of the event, as is the Committee's otherwise exclusive practice."

The Committee asserts that it has always taken compliance matters very seriously and has a compliance program that is run on a day-to-day basis by three full-time Committee staffpersons, including a Director "with experience in the FEC's rules." The Committee explains that once an event sponsor has been identified, the Committee's Director of Compliance contacts the sponsor and supplies him or her with an "Event Guidelines" memorandum, which makes clear that invitations and solicitations are not to be written on corporate letterhead or returned to corporate facilities, and describes the necessary disclaimers that must be provided. The memorandum also states that all written materials used in connection with a fundraiser must be approved by the Director before printing will be authorized or the materials are distributed. The Committee explains that because the event in question was held in Washington, D.C. by an individual who had not previously worked with the Committee, "it appears that" the New Jersey-based compliance staff was not aware of the event before it occurred and consequently was unaware of its need to contact Mr. Jones and review materials in connection with the fundraiser. The Committee avers that in this one isolated instance, Mr. Jones was a first-time event sponsor for the Committee who was not familiar with the latest rule changes, had not had an occasion in the past to work with the Committee's compliance staff, and consequently produced his own solicitation materials without the prior approval of the Committee's compliance director. The Committee states that it is reviewing its procedures to insure that no future event evades compliance review. The Committee concludes that its "compliance program ... assures the Commission that the two relatively

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minor irregularities with respect to the April 24 event will not occur in the future, and are not the basis for pursuing violations of the FECA."

Initially, we note the following facts relevant to the question of whether the fundraising event at issue was a corporate-sponsored event or a product of individual volunteer activity. The respondents state that the fundraiser was hosted by fifteen individuals, including Tony Jones. This assertion tends to be supported by the record as the solicitation for the Torricelli fundraiser lists Tony Jones as the host and fourteen other individuals as comprising the host committee. The corporation, Tonya, Inc., appears to be referenced on the solicitation materials only as the location of the fundraiser.

In addition, according to information available on the disclosure reports of other candidate committees, of the fourteen individuals listed as members of the host committee, at least ten are not employees of Tonya, Inc.; of these individuals, several are presidents of their own businesses.⁷ This also tends to support the respondents' assertion that the Torricelli fundraising event was sponsored by Tony Jones and the individuals who comprised the host committee, not Tonya, Inc. Further, the Torricelli committee, not Tonya, Inc., paid the vendors that provided services in connection with the fundraiser. Based on the foregoing, it appears that the Torricelli fundraiser at issue was not a corporate event, but rather an event that was sponsored by several individuals and held at the corporate office of the primary host.

Inasmuch as the fundraiser appears not to have been held by the corporation, the provisions of the regulations governing corporate communications found at Section 114.3

⁷ Information regarding the employment of the four remaining individuals was not available internally.

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and 114.4 do not appear to be applicable. See 11 C.F.R. §§ 114.3 and 114.4.

Consequently, the fact that the host committee consisted of individuals beyond the corporation's restricted class, as noted by the complainant, is not material.

Based on the respondents' response, it appears that the use of corporate resources in connection with the Torricelli fundraiser involved the use of three Tonya, Inc. employees -- Tony Jones and Valerie Brown, who each stated in affidavits that their work on the Torricelli fundraiser was done on a voluntary basis, and that they did not spend more than one hour per week or four hours per month on the fundraiser, and Tonya Jones, Tony Jones' daughter. According to Mr. Jones' affidavit, Tonya Jones periodically works on a part-time basis for Tonya, Inc., and volunteered 3 hours to the Torricelli fundraiser greeting guests at the entrance to the event. Mr. Jones also stated that he reimbursed Tonya, Inc. \$96.00 for postage expenses incurred in connection with the Torricelli fundraiser, and that work on the Torricelli fundraiser did not increase the corporation's overhead costs. Given that the respondents' assertions are plausible and not inconsistent with the information of record, it appears that the activity of Tony Jones, Valerie Brown, and Tonya Jones in connection with the Torricelli fundraiser falls within the bounds of permissible activity pursuant to Section 114.9(a).

Relevant to Section 114.13, the respondents state that "Tonya, Inc. customarily uses its offices for fundraising events for state and federal political candidates, meetings of civic organizations, and nonprofit organizations at no charge." While the respondents assert that Tonya, Inc. makes its facilities available to, *inter alia*, state and federal political

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candidates, we note that the respondents have not asserted and/or shown that Tonya, Inc. makes its facilities available to any candidate upon request, as required by Section 114.13. In addition, the corporation provided solicitees with contribution reply envelopes addressed to Tonya, Inc., and it is undisputed that the contributions solicited were returned to "Tonya, Incorporated." These acts in themselves constitute prohibited corporate facilitation. See 11 C.F.R. § 114.2(f)(2)(ii). Therefore, we recommend that the Commission find reason to believe that Tonya, Inc. violated 2 U.S.C. § 441b.

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With respect to the question of whether Congressman Torricelli and/or the Torricelli committee violated the Act by knowingly accepting contributions that were impermissibly facilitated, we note the following. The respondents specifically assert that the solicitation materials were produced and distributed without the prior written approval of the Committee's compliance staff. However, their response does not address the extent of the Committee's/Congressman Torricelli's knowledge of the fact that the contributions had been impermissibly facilitated. The complaint alleges and the respondents have not rebutted that Congressman Torricelli attended the fundraising event, which was held on corporate premises, and accepted contributions that were collected and kept at the corporate headquarters. Given the un rebutted allegations, we recommend that the Commission find reason to believe that the Torricelli for U.S. Senate, Inc. committee and Stephen J. Moses, as treasurer, violated 2 U.S.C. § 441b by knowingly accepting impermissibly facilitated contributions.⁸ Inasmuch as we deem the Torricelli committee to be the appropriate respondent relevant to the acceptance of the contributions at issue,

⁸ Under the Act, Congressman Torricelli is considered as having accepted the contributions at issue as an agent of the Torricelli committee. See 2 U.S.C. § 432(e)(3).

we recommend that the Commission find that there is no reason to believe that the Honorable Robert Torricelli knowingly accepted prohibited contributions in violation of 2 U.S.C. § 441b.

Based on information available on the public record indicating that as of April 1, 1996, Tonya, Inc. was providing services to an agency of the United States government under contract, *see* note 1, *supra*, it appears likely that during the period surrounding the April 24, 1996 Torricelli fundraiser, Tonya, Inc. was also prohibited from making contributions of money or any thing of value to a political committee or candidate for public office based on its status as a government contractor pursuant to Section 441c of the Act. Inasmuch as Tonya, Inc. facilitated the making of contributions to the Torricelli committee by assisting in transmitting such contributions, and thereby contributed something of value to the Torricelli committee, we recommend that the Commission find reason to believe that Tonya, Inc. violated 2 U.S.C. § 441c.

Finally, because it appears that Anthony Jones paid for the postage used to mail the solicitations at issue and the Torricelli committee paid for the printing of the solicitations, both of these respondents were responsible for insuring that the solicitations contained the proper disclaimers. Inasmuch as these respondents failed to place the required disclaimer on the solicitations at issue, we recommend that the Commission find reason to believe that Anthony Jones and the Torricelli for U.S. Senate, Inc. committee and Stephen J. Moses, as treasurer, violated 2 U.S.C. § 441d.

This Office recommends, however, that the Commission issue admonishments and take no further action against the respondents inasmuch as the violations at issue

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appear to have been isolated and, as discussed, *supra*, the respondents have taken steps to ensure that violations of the Act do not occur in the future.

IV. RECOMMENDATIONS

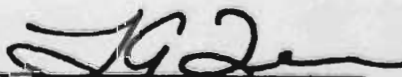
1. Find reason to believe that Tonya, Inc. violated 2 U.S.C. §§ 441b and 441c and take no further action.
2. Find reason to believe that the Torricelli for U.S. Senate, Inc. committee and Stephen J. Moses, as treasurer, violated 2 U.S.C. §§ 441b and 441d and take no further action.
3. Find no reason to believe that the Honorable Robert Torricelli violated 2 U.S.C. § 441b.
4. Find reason to believe that Anthony Jones violated 2 U.S.C. § 441d and take no further action.
5. Approve the appropriate letters.
6. Close the file.

Lawrence M. Noble
General Counsel

Date

11/8/96

BY:



Lois G. Lerner
Associate General Counsel

Attachments:

1. Complaint
2. Responses (2)

97043773008



FEDERAL ELECTION COMMISSION

Washington, DC 20463

MEMORANDUM

**TO: LAWRENCE M. NOBLE
GENERAL COUNSEL**

**FROM: MARJORIE W. EMMONS/BONNIE ROSS
COMMISSION SECRETARY**

DATE: NOVEMBER 13, 1996

SUBJECT: MUR 4352 - First General Counsel's Report dated 11/8/96.

The above-captioned document was circulated to the Commission
on Tuesday, November 12, 1996.

Objection(s) have been received from the Commissioner(s) as
indicated by the name(s) checked below:

Commissioner Aikens	—
Commissioner Elliott	<u>XXX</u>
Commissioner McDonald	—
Commissioner McGarry	—
Commissioner Thomas	—

This matter will be placed on the meeting agenda for

Tuesday, December 03, 1996.

Please notify us who will represent your Division before the Commission on this
matter.

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BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of)
) MUR 4352
Tonya, Inc., and Anthony Jones,)
Registered Agent;)
Anthony Jones;)
Torricelli for U.S. Senate, Inc.,)
and Stephen J. Moses, as)
Treasurer;)
The Honorable Robert Torricelli)

CERTIFICATION

I, Marjorie W. Emmons, recording secretary for the
Federal Election Commission executive session on
December 3, 1996, do hereby certify that the Commission
decided by a vote of 5-0 to take the following actions
in MUR 4352:

1. Find reason to believe that Tonya, Inc.
violated 2 U.S.C. §§ 441b and 441c and
take no further action.
2. Find reason to believe that the Torricelli
for U.S. Senate, Inc. committee and
Stephen J. Moses, as treasurer, violated
2 U.S.C. §§ 41b and 441d and take no
further action.
3. Find no reason to believe that the
Honorable Robert Torricelli violated
2 U.S.C. § 441b.
4. Find reason to believe that Anthony Jones
violated 2 U.S.C. § 441d and take no
further action.

(continued)

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Federal Election Commission
Certification for MUR 4352
December 3, 1996

Page 2

5. Approve the appropriate letters as recommended in the General Counsel's November 8, 1996 report.

16. Close the file.

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

Attest:

12-4-96

Date

Marjorie W. Emmons

Marjorie W. Emmons
Secretary of the Commission

97043773011



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

December 10, 1996

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Craig M. Engle, General Counsel
National Republican Senatorial Committee
425 Second Street, NE
Washington, DC 20002

RE: MUR 4352

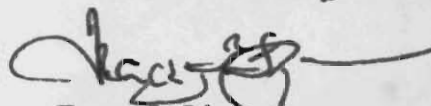
Dear Mr. Engle:

This is in reference to the complaint you filed with the Federal Election Commission on May 1, 1996, concerning possible violations of the Federal Election Campaign Act of 1971, as amended ("the Act").

Based on that complaint, on December 3, 1996, the Commission found that there was reason to believe that Tonya, Inc. violated 2 U.S.C. §§ 441b and 441c, that the Torricelli for U.S. Senate, Inc. Committee and Stephen J. Moses, as treasurer, violated 2 U.S.C. §§ 441b and 441d and that Anthony Jones violated 2 U.S.C. § 441d. The Commission also found that there is no reason to believe that the Honorable Robert Torricelli violated 2 U.S.C. § 441b. After considering the circumstances of this matter, the Commission simultaneously determined to take no further action against the respondents and closed the file in this matter. 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).

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

Sincerely,



Tracey L. Ligon
Attorney

Enclosure
General Counsel's Report

Celebrating the Commission's 20th Anniversary

YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 10, 1996

**Paul P. Josephson, Esq.
Sills Cummis Zuckerman Radin Tischman
Epstein & Gross
One Riverfront Plaza
Newark, New Jersey 07102-5400**

Re: MUR 4352

**Torricelli for U.S. Senate, Inc.
and Stephen J. Moses, as treasurer
The Honorable Robert Torricelli**

Dear Mr. Josephson:

On December 3, 1996, the Federal Election Commission found reason to believe that your clients, Torricelli for U.S. Senate, Inc. and Stephen J. Moses, as treasurer, violated 2 U.S.C. §§ 441b and 441d, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). The Commission found that there is no reason to believe that the Honorable Robert Torricelli violated 2 U.S.C. § 441b. After considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The General Counsel's Report, which formed a basis for the Commission's findings, is attached for your information.

The Commission reminds you that the Act prohibits corporations from facilitating the making of contributions, see 2 U.S.C. § 441b; 11 C.F.R. § 114.2(f)(2)(ii), and correspondingly prohibits political committees from accepting such impermissibly facilitated contributions, see 2 U.S.C. § 441a(f). In addition, the failure to place required disclaimers on solicitations for contributions is a violation of the Act. See 2 U.S.C. § 441d. Your clients should take steps to ensure that this activity does not occur in the future.

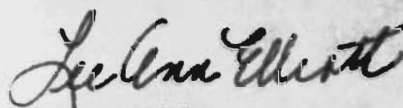
The confidentiality provisions at 2 U.S.C. § 437g(a)(12) no longer apply and this matter is now public. In addition, although the complete file must be placed on the public record within 30 days, this could occur at any time following certification of the Commission's vote. If you wish to submit any 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 before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

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Paul P. Josephson, Esq.
Page 2

If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,



Lee Ann Elliott
Chairman

Enclosure
General Counsel's Report

97043773014



FEDERAL ELECTION COMMISSION

WASHINGTON, D.C. 20463

December 10, 1996

A. J. Cooper, Esq.
Ginsburg, Feldman and Bress
1250 Connecticut Avenue, NW
Washington, DC 20036-2600

RE: MUR 4352
Anthony Jones
Tonya, Inc.

Dear Mr. Cooper:

On December 3, 1996, the Federal Election Commission found reason to believe that your clients, Anthony Jones and Tonya, Inc., respectively, violated 2 U.S.C. § 441d and 2 U.S.C. §§ 441b and 441c, provisions of the Federal Election Campaign Act of 1971, as amended ("the Act"). However, after considering the circumstances of this matter, the Commission also determined to take no further action and closed its file. The General Counsel's Report, which formed a basis for the Commission's findings, is attached for your information.

The Commission reminds you that failure to place required disclaimers on solicitations for contributions is a violation of 2 U.S.C. § 441d. In addition, corporations are prohibited from facilitating the making of contributions which includes providing materials for the purpose of transmitting or delivering contributions such as contribution reply envelopes addressed to the corporation. See 2 U.S.C. § 441b; 11 C.F.R. § 114.2(f)(2)(ii). Finally, federal contractors are prohibited from making contributions and are thus prohibited from providing something of value to political committees by facilitating the making of contributions. See 2 U.S.C. § 441c. Your clients should take steps to ensure that this activity does not occur in the future.

The confidentiality provisions at 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 before receiving your additional materials, any permissible submissions will be added to the public record upon receipt.

Celebrating the Commission's 20th Anniversary

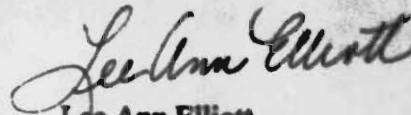
YESTERDAY, TODAY AND TOMORROW
DEDICATED TO KEEPING THE PUBLIC INFORMED

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A. J. Cooper, Esq.
Page 2

If you have any questions, please contact Tracey L. Ligon, the attorney assigned to this matter, at (202) 219-3400.

Sincerely,



Lee Ann Elliott
Chairman

Enclosure
General Counsel's Report

cc: Candidate

97043773016



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

THIS IS THE END OF MUR # 4352

DATE FILMED 1-17-97 CAMERA NO. 4

CAMERAMAN JMP

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